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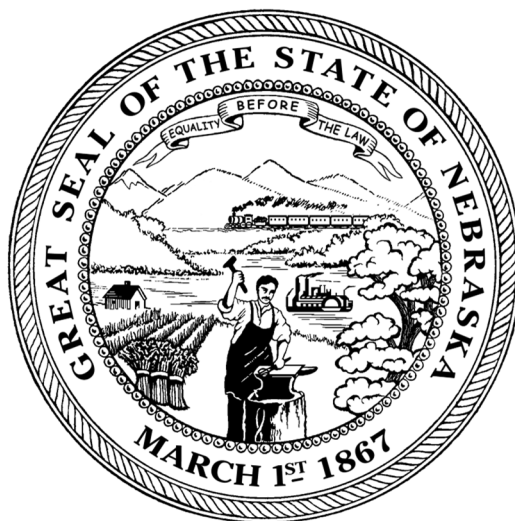
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REVISED STATUTES OF NEBRASKA

2023 SUPPLEMENT

EDITED, ANNOTATED, AND PUBLISHED
BY THE
REVISOR OF STATUTES

CHAPTERS 1 TO 90, UCC, AND APPENDIX, INCLUSIVE



CITE AS FOLLOWS

R.S.SUPP.,2023

Errata:

All errors so far discovered in the printing of the Reissue Revised Statutes of Nebraska, and the various supplements thereto, are corrected herein. The Revisor of Statutes would appreciate having reported to her any mistakes or errors of any kind in the Reissue Revised Statutes of Nebraska or in the various supplements thereto.

Reissue of Volumes 1 to 6

The laws enacted subsequent to 1943 which are included in the reissuance of Volumes 1 to 6 are not repeated and duplicated in this supplement. The dates of the latest reissue of such volumes are:

Volumes 1, 1A, and 1B	2022
Volumes 2 and 2A.....	2016
Volume 3.....	2016
Volumes 3A, 3B, and 3C.....	2021
Volumes 4, 4A, and 4B	2018
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Marcia M. McClurg
Revisor of Statutes
(402) 471-2225
mmcclurg@leg.ne.gov

CERTIFICATE OF AUTHENTICATION

I, Marcia M. McClurg, Revisor of Statutes, do hereby certify that the laws included in the 2023 Supplement to the Revised Statutes of Nebraska are true and correct copies of the original acts enacted by the One Hundred Eighth Legislature, First Session, 2023, of the Nebraska State Legislature as shown by the enrolled bills on file in the office of the Secretary of State, save and except such compilation changes and omissions as are specifically authorized by sections 49-705 and 49-769.

Marcia M. McClurg
Revisor of Statutes

Lincoln, Nebraska
September 1, 2023

EDITORIAL STAFF

Marcia M. McClurg Revisor of Statutes
Micah L. Uher Assistant Revisor of Statutes
Mark A. Ludwig Assistant Revisor of Statutes
Andrew J. Conroy Associate Revisor of Statutes
Matthew J. Pernicek Legal Counsel
Loguen P. Blazek Legal Counsel
Dana L. McNeil Legal Counsel
Quinn N. Conzemius Legal Counsel
Jane Plettner Statute Technician
Marilee McPherson Deputy Statute Technician
Suzanne Tesina Assistant Statute Technician
Brandi Thorn Assistant Statute Technician
Gaylena Gibson Assistant Statute Technician
Saige Hastings Assistant Statute Technician
Alexander Harrison Assistant Statute Technician

ANNOTATIONS

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CONSTITUTION OF THE STATE OF NEBRASKA

Article I, sec. 3.

For the issue involving specialized knowledge to be a significant factor, the issue must be one likely to make a difference as to the outcome if the defendant is successful in contesting it. *State v. Wood*, 310 Neb. 391, 966 N.W.2d 825 (2021).

There is a reasonable necessity for appointed expert assistance if the defendant shows some basis for believing the issue can only be strongly contested with the assistance of an appointed expert. *State v. Wood*, 310 Neb. 391, 966 N.W.2d 825 (2021).

There is no principled way to distinguish between psychiatric and nonpsychiatric experts; an expert in any field of expertise may, under the circumstances, be a basic tool of an adequate defense or appeal. *State v. Wood*, 310 Neb. 391, 966 N.W.2d 825 (2021).

To show a constitutional right to appointment of an independent expert at the State's expense, the accused must timely make a preliminary, particularized showing (1) that an issue involving specialized knowledge is likely to be a significant factor in the accused's defense and (2) that there is a reasonable necessity for the defense to have expert assistance in contesting that issue. *State v. Wood*, 310 Neb. 391, 966 N.W.2d 825 (2021).

Article I, sec. 6.

Nebraska's sentencing scheme does not violate article I, sec. 6, of the Nebraska Constitution by leaving to the three-judge panel the ultimate life-or-death decision upon making the selection decisions of whether the aggravating circumstances justify the death penalty and whether sufficient mitigating circumstances exist that approach or exceed the weight given to the aggravating circumstances. *State v. Trail*, 312 Neb. 843, 981 N.W.2d 269 (2022).

Article I, sec. 7.

Probable cause existed for a warrant to search a cell phone for evidence of unlawful intrusion after a male was observed looking into the window of a bathroom, and the cell phone was located on the path the male took when he fled. *State v. McGovern*, 311 Neb. 705, 974 N.W.2d 595 (2022).

Viewing of cell phone videos by police, which led to the observation of a possible sexual assault, was reasonable and within the scope of the warrant. *State v. McGovern*, 311 Neb. 705, 974 N.W.2d 595 (2022).

Article I, sec. 9.

Delegation of the selection criteria and ultimate life-or-death decision to a three-judge panel does not violate article I, sec. 9, of the Nebraska Constitution, because it does not create an unacceptable risk that persons will be executed without the constitutionally required consideration of character, record of the individual offender, and the circumstances of the particular offense. *State v. Trail*, 312 Neb. 843, 981 N.W.2d 269 (2022).

A sentence of 25 to 30 years' imprisonment was not cruel and unusual punishment for a defendant who was convicted of first degree sexual assault of a young aspiring Olympian who trained at his gym, because the sentence reflected the seriousness of the crime committed and was proportionate for the offense and the offender. *State v. Anders*, 311 Neb. 958, 977 N.W.2d 234 (2022).

Article I, sec. 11.

A defendant cannot claim the loss of the fundamental right to a speedy trial through the inherent delays of a process the defendant called upon, even if that process was to vindicate another fundamental right. *State v. Short*, 310 Neb. 81, 964 N.W.2d 272 (2021).

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Article V, sec. 2.

An appeal challenging a Bar Commission order does not invoke the Supreme Court's original jurisdiction, and, as such, the Supreme Court lacks jurisdiction to award costs, damages, and other relief. *In re Appeal of Z.H.*, 311 Neb. 746, 975 N.W.2d 142 (2022).

The Nebraska Constitution allocates the regulation of appellate jurisdiction to the Legislature, not to the Nebraska Supreme Court. *State v. Blake*, 310 Neb. 769, 969 N.W.2d 399 (2022).

Article IX, sec. 4.

County election commissioners and chief deputies are not considered as classed with "county officers." *State ex rel. Peterson v. Shively*, 310 Neb. 1, 963 N.W.2d 508 (2021).

STATUTES OF THE STATE OF NEBRASKA

13-903.

A county board of equalization is not a political subdivision "other than a county," and service upon a county board of equalization must be accomplished pursuant to the requirements of subsection (2) of section 25-510.02 governing service upon a county, rather than subsection (3), governing service upon a political subdivision of this state other than a county. *Hilt v. Douglas Cty. Bd. of Equal.*, 30 Neb. App. 425, 970 N.W.2d 113 (2021).

13-910.

If recovery for the injury in question depends upon an intentional, harmful, or offensive contact's being unprivileged, then it depends also upon a battery and is "arising from" it for purposes of subdivision (7) of this section. *Dion v. City of Omaha*, 311 Neb. 522, 973 N.W.2d 666 (2022).

The intentional tort exemption reflects public policy determinations against allowing government employees to engage, at the government's expense, in lawless activities that are practically, if not legally, outside the scope of their proper functions and which are contrary to the promotion of high standards of performance by a sovereign's employees. *Dion v. City of Omaha*, 311 Neb. 522, 973 N.W.2d 666 (2022).

To determine the gravamen of a complaint, a court looks to whether the plaintiff has alleged an injury independent of that caused by the excluded acts, i.e., that the injury is linked to a duty to act that is entirely separate from the acts expressly excluded from the statutory waiver of sovereign immunity. *Dion v. City of Omaha*, 311 Neb. 522, 973 N.W.2d 666 (2022).

The principles of law governing whether a statute creates a private right of action have no direct bearing on whether the statute prescribes a course of conduct for purposes of the discretionary function inquiry. *Clark v. Sargent Irr. Dist.*, 311 Neb. 123, 971 N.W.2d 298 (2022).

When an employee of a political subdivision has no choice but to adhere to a statutorily prescribed course of conduct, the discretionary function exemption does not apply. *Clark v. Sargent Irr. Dist.*, 311 Neb. 123, 971 N.W.2d 298 (2022).

13-919.

For purposes of subsection (1) of this section, a cause of action accrues, thereby starting the period of limitations, when a potential plaintiff discovers, or in the exercise of reasonable diligence should discover, the political subdivision's negligence. *Weyers v. Community Memorial Hosp.*, 30 Neb. App. 520, 971 N.W.2d 155 (2022).

The operation of the Nebraska Hospital-Medical Liability Act does not excuse compliance with the requirement under the Political Subdivisions Tort Claims Act that a claim be presented to the political subdivision prior to filing suit. *Weyers v. Community Memorial Hosp.*, 30 Neb. App. 520, 971 N.W.2d 155 (2022).

While not a jurisdictional prerequisite, the filing or presentment of a claim to the appropriate political subdivision is a condition precedent to commencement of a suit under the Political Subdivisions Tort Claims Act. *Weyers v. Community Memorial Hosp.*, 30 Neb. App. 520, 971 N.W.2d 155 (2022).

ANNOTATIONS

21-148.

The judicial supervision of the winding up of a limited liability company is a multifaceted special proceeding, and an order that ends a discrete phase of the proceeding affects a substantial right because it finally resolves the issues raised in that phase. *Schreiber Bros. Hog Co. v. Schreiber*, 312 Neb. 707, 980 N.W.2d 890 (2022).

21-168.

Derivative actions brought pursuant to the Nebraska Uniform Limited Liability Company Act are not special proceedings, and any proceedings under this section are merely a step in the underlying derivative action. *Tegra Corp. v. Boeshart*, 311 Neb. 783, 976 N.W.2d 165 (2022).

21-2,171.

The determination of fair value for purposes of an elect-to-purchase action under part 14 shall be defined using the definition of fair value, in its entirety, as provided within part 13 at subdivision (3) of this section, which precludes the use of discounting for lack of marketability or minority status. *Bohac v. Benes Service Co.*, 310 Neb. 722, 969 N.W.2d 103 (2022).

21-2,201.

Expenses under subsection (e) of this section do not include attorney fees. *Bohac v. Benes Service Co.*, 310 Neb. 722, 969 N.W.2d 103 (2022).

"Fair value" as used within this section and applied to a closely held corporation shall be determined using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal. *Bohac v. Benes Service Co.*, 310 Neb. 722, 969 N.W.2d 103 (2022).

23-114.01.

The right to appeal conferred by this section does not apply to the extension of a conditional use permit. *Preserve the Sandhills v. Cherry County*, 310 Neb. 184, 964 N.W.2d 721 (2021).

23-1114.01.

Through its omission of election commissioners and chief deputy election commissioners from the language contained in this section through section 23-1114.07, the Legislature did not intend for election commissioners or the chief deputies to be classified as county officers. *State ex rel. Peterson v. Shively*, 310 Neb. 1, 963 N.W.2d 508 (2021).

23-1201.02.

An attorney's providing legal advice to an organization on a routine basis regarding various matters satisfies the "practiced law actively" requirement. *Nebraska Republican Party v. Shively*, 311 Neb. 160, 971 N.W.2d 128 (2022).

"Practiced law actively" means engaged in giving advice or rendering such service as requires the use of any degree of legal knowledge or skill and doing so on a daily or routine basis. *Nebraska Republican Party v. Shively*, 311 Neb. 160, 971 N.W.2d 128 (2022).

24-302.

Even though a court has subject matter jurisdiction to hear a request for a domestic abuse protection order, the defendant may file to transfer the action to a more appropriate venue pursuant to section 25-403.01. *Jacobo v. Zoltenko*, 30 Neb. App. 44, 965 N.W.2d 32 (2021).

24-1104.

The district court is not obligated to follow a Nebraska Court of Appeals' opinion that was not designated for permanent publication and is not related to the parties before the district court. *Kauk v. Kauk*, 310 Neb. 329, 966 N.W.2d 45 (2021).

ANNOTATIONS

25-205.

The statute of limitations on a deferred compensation agreement did not begin to run until the work was fully performed, which in this case was when the employer died and the claimant ceased to work for him. In re Estate of Lakin, 310 Neb. 271, 965 N.W.2d 365 (2021).

25-206.

The 4-year statute of limitations for oral contracts provided in this section applies where, although there is a written contract between the parties, parol evidence is necessary in order to establish the terms of the agreement; in other words, the statute of limitations in this section, rather than that provided by section 25-205, applies where a contract is partly oral and partly written. Aurora Technology v. Labedz, 30 Neb. App. 33, 964 N.W.2d 474 (2021).

25-207.

The statute of limitations for ordinary negligence does not begin to accrue until the plaintiff becomes an aggrieved party with a right to institute and maintain suit, which requires that none of the elements of the claim depend upon abstract questions or issues that might arise in a hypothetical or fictitious situation or setting and may never come to pass. Susman v. Kearney Towing & Repair Ctr., 310 Neb. 910, 970 N.W.2d 82 (2022).

25-217.

The service and automatic dismissal provisions of this section do not apply to habeas corpus proceedings. Childs v. Frakes, 312 Neb. 925, 981 N.W.2d 598 (2022).

25-222.

The continuous treatment doctrine for limitations in a malpractice action applies only for incorrect treatment based on misdiagnosis or other continuing course of negligent treatment. Bogue v. Gillis, 311 Neb. 445, 973 N.W.2d 338 (2022).

25-224.

Because the repose provisions in this section apply to "product liability actions," they necessarily apply to claims against manufacturers, sellers, and lessors of products. Ag Valley Co-op v. Servinsky Engr., 311 Neb. 665, 974 N.W.2d 324 (2022).

"The product," as used in this section, refers to the completed product that is placed on the market and sold or leased for consumer use, and necessarily includes all of the product's original component parts. Ag Valley Co-op v. Servinsky Engr., 311 Neb. 665, 974 N.W.2d 324 (2022).

25-323.

When an indispensable party is absent, the court has a duty under this section to require that the indispensable party be brought into the action. Williams v. Williams, 311 Neb. 772, 973 N.W.2d 523 (2022).

The lis pendens statute set forth at section 25-531 controls over this more general statute requiring the joinder of necessary and indispensable parties. Wilkinson Development v. Ford & Ford Investments, 311 Neb. 476, 973 N.W.2d 349 (2022).

25-510.02.

A county board of equalization is not a political subdivision "other than" a county, and service upon a county board of equalization must be accomplished pursuant to the requirements of subsection (2) rather than subsection (3) of this section. Hilt v. Douglas Cty. Bd. of Equal., 30 Neb. App. 425, 970 N.W.2d 113 (2021).

This section provides that the plain meaning of the phrase "may be served," when viewed in the context of the service statutes, modifies the method of acceptable service, not the entity to be served. Hilt v. Douglas Cty. Bd. of Equal., 30 Neb. App. 425, 970 N.W.2d 113 (2021).

ANNOTATIONS

25-531.

The lis pendens statute is a specific statute that controls over section 25-323, which is the more general statute requiring the joinder of necessary and indispensable parties. *Wilkinson Development v. Ford & Ford Investments*, 311 Neb. 476, 973 N.W.2d 349 (2022).

25-536.

A Nebraska-based client will not provide a sufficient basis for specific personal jurisdiction over a nonresident attorney absent the solicitation of Nebraska-based clients or something else linking the attorney to the state. *Central States Dev. v. Friedgut*, 312 Neb. 909, 981 N.W.2d 573 (2022).

Nebraska courts lacked personal jurisdiction over a nonresident attorney and out-of-state law firm where the attorney sought a federal agency's approval of a federal program for a Nebraska-based client. *Central States Dev. v. Friedgut*, 312 Neb. 909, 981 N.W.2d 573 (2022).

25-601.

After one of several claims has been finally submitted, a plaintiff retains the right to voluntarily dismiss other claims that have not yet been finally submitted, but the plaintiff loses the statutory right to voluntarily dismiss the entire action. *Schaaf v. Schaaf*, 312 Neb. 1, 978 N.W.2d 1 (2022).

The district court's authority to reinstate a case following its grant of partial summary judgment on one of several claims was unaffected by the plaintiffs' voluntary dismissal of the entire action, to which the plaintiffs were not statutorily entitled. *Schaaf v. Schaaf*, 312 Neb. 1, 978 N.W.2d 1 (2022).

25-840.

A defendant's allegedly defamatory statement being true is a complete defense to a claim of defamation unless the plaintiff proves the statement was made with actual malice. *Choice Homes v. Donner*, 311 Neb. 835, 976 N.W.2d 187 (2022).

25-1026.

A garnishee who serves as the plan administrator for a judgment debtor's employee benefit plan must comply with this section and disclose any property of the judgment debtor that it possesses or controls, regardless of whether the property is subject to garnishment. *Florence Lake Investments v. Berg*, 312 Neb. 183, 978 N.W.2d 308 (2022).

25-1030.

A garnishee who serves as the plan administrator for a judgment debtor's employee benefit plan cannot be found personally liable for the judgment debtor's debt for failing to disclose the plan pursuant to section 25-1026, because the Employee Retirement Income Security Act bars the assignment or alienation of pension benefits. *Florence Lake Investments v. Berg*, 312 Neb. 183, 978 N.W.2d 308 (2022).

25-1030.02.

In determining the liability of a garnishee to a garnishor, the test is whether, as of the time the summons in garnishment was served, the facts would support a recovery by the garnishor's judgment debtor against the garnishee. *Florence Lake Investments v. Berg*, 312 Neb. 183, 978 N.W.2d 308 (2022).

25-1056.

The Employee Retirement Income Security Act's anti-alienation statute bars creditors from collecting undistributed funds in a judgment debtor's employee benefit plan through postjudgment garnishment in aid of execution proceedings. *Florence Lake Investments v. Berg*, 312 Neb. 183, 978 N.W.2d 308 (2022).

25-1081.

An order that issues further directions to a previously appointed receiver that was never discharged is not an order appointing a receiver. *Seid v. Seid*, 310 Neb. 626, 967 N.W.2d 253 (2021).

ANNOTATIONS

25-1087.

A court may consider a party's oral request for interim relief, which requires further action by a previously appointed receiver, as an application for further directions. *Seid v. Seid*, 310 Neb. 626, 967 N.W.2d 253 (2021).

25-1089.

An order that issues further directions to an appointed receiver is not within this section. *Seid v. Seid*, 310 Neb. 626, 967 N.W.2d 253 (2021).

25-1146.

Public perceptions of a defect when the evidence demonstrates there is none is an improper basis for recovery. *de Vries v. L & L Custom Builders*, 310 Neb. 543, 968 N.W.2d 64 (2021).

25-1148.

Sua sponte judicial delays might be characterized as continuances by the court, but they are not "applications for continuances" as described by section 29-1206 and, accordingly, need not be in conformance with the requirements of this section, which describes a hearing on the application and the necessary form of support for applications for continuances or adjournment "made by a party or parties." *State v. Chase*, 310 Neb. 160, 964 N.W.2d 254 (2021).

25-1315.

The term "action" in this section broadly references civil cases that present multiple claims for relief or involve multiple parties. *Mann v. Mann*, 312 Neb. 275, 978 N.W.2d 606 (2022).

This section can be implicated in civil actions, special proceedings, and civil actions joined with special proceedings. *Mann v. Mann*, 312 Neb. 275, 978 N.W.2d 606 (2022).

To be appealable, an order must meet the final order requirements of both this section and section 25-1902. *Mann v. Mann*, 312 Neb. 275, 978 N.W.2d 606 (2022).

This section is inapplicable to a final order regarding a postjudgment garnishment in aid of execution directed to specific property where all rights of all parties claiming an interest in the specific property garnished have been adjudicated. *Florence Lake Investments v. Berg*, 312 Neb. 183, 978 N.W.2d 308 (2022).

25-1901.

A board or tribunal exercises a judicial function if it decides a dispute of adjudicative fact or if a statute requires it to act in a judicial manner. But where a board or tribunal decides no question of adjudicative fact and no statute requires it to act in a judicial manner, the orders are not "judicial" and are not reviewable by error proceedings. *Main St Properties v. City of Bellevue*, 310 Neb. 669, 968 N.W.2d 625 (2022).

A zoning ordinance constitutes the exercise of a governmental and legislative function, and a city council adopting a rezoning ordinance, which amends a general zoning ordinance, acts in a legislative capacity. *Main St Properties v. City of Bellevue*, 310 Neb. 669, 968 N.W.2d 625 (2022).

An appeal or error proceeding does not lie from a purely legislative act by a public body to which legislative power has been delegated, and the only remedy in such cases is by collateral attack, that is, by injunction or other suitable action. *Main St Properties v. City of Bellevue*, 310 Neb. 669, 968 N.W.2d 625 (2022).

Petition-in-error jurisdiction is limited by statute to a review of a judgment rendered or final order made by any tribunal, board, or officer exercising judicial functions and inferior in jurisdiction to the district court. *Main St Properties v. City of Bellevue*, 310 Neb. 669, 968 N.W.2d 625 (2022).

When an entity such as a city council is exercising its judicial functions, the petition in error statute is the proper method for challenging such actions. *Main St Properties v. City of Bellevue*, 310 Neb. 669, 968 N.W.2d 625 (2022).

When viewed under the motion to dismiss standards for review, the allegations showed the city council adopted a rezoning ordinance based upon the recommendation of the planning commission. The allegations did not show the city council decided a dispute of adjudicative fact. *Main St Properties v. City of Bellevue*, 310 Neb. 669, 968 N.W.2d 625 (2022).

ANNOTATIONS

25-1902.

The judicial supervision of the winding up of a limited liability company is a multifaceted special proceeding, and an order that ends a discrete phase of the proceeding affects a substantial right because it finally resolves the issues raised in that phase. *Schreiber Bros. Hog Co. v. Schreiber*, 312 Neb. 707, 980 N.W.2d 890 (2022).

To be appealable, an order must meet the final order requirements of both section 25-1315 and this section. *Mann v. Mann*, 312 Neb. 275, 978 N.W.2d 606 (2022).

An order denying temporary injunctive relief is not a "final order." *Ramaekers v. Creighton University*, 312 Neb. 248, 978 N.W.2d 298 (2022).

An order overruling an application to determine garnishee liability in a postjudgment garnishment in aid of an execution proceeding is a "final order" under this section, because it affects a substantial right made on a summary application in an action after a judgment is entered. *Florence Lake Investments v. Berg*, 312 Neb. 183, 978 N.W.2d 308 (2022).

An order to mediate does not affect any substantial right of the parties. *Tegra Corp. v. Boeshart*, 311 Neb. 783, 976 N.W.2d 165 (2022).

Derivative actions brought pursuant to the Nebraska Uniform Limited Liability Company Act are not special proceedings, and any proceedings under section 21-168 are merely a step in the underlying derivative action. *Tegra Corp. v. Boeshart*, 311 Neb. 783, 976 N.W.2d 165 (2022).

An order denying a petition for a special administrator under section 30-2457 and concurrent request under section 30-2457 for an order restraining, during the pendency of a will contest, the personal representative of the decedent's estate is a final, appealable order. *In re Estate of Anderson*, 311 Neb. 758, 974 N.W.2d 847 (2022).

When a motion for summary judgment asserts that the plaintiff's claim falls within one or more of the statutory exemptions under the State Tort Claims Act or the Political Subdivisions Tort Claims Act, the motion is based on the assertion of sovereign immunity within the meaning of subdivision (1)(d) of this section. *Clark v. Sargent Irr. Dist.*, 311 Neb. 123, 971 N.W.2d 298 (2022).

When a motion for summary judgment asserts the plaintiff failed to comply with the presuit claim procedures of the Political Subdivisions Tort Claims Act or the State Tort Claims Act, the motion is not based on the assertion of sovereign immunity within the meaning of subdivision (1)(d) of this section. *Clark v. Sargent Irr. Dist.*, 311 Neb. 123, 971 N.W.2d 298 (2022).

The probate court's order appointing a personal representative was a final order; it ended a discrete phase of the probate proceeding and the appointment order, coupled with the issuance of letters of personal representative, imposed fiduciary duties on the appointee. *In re Estate of Severson*, 310 Neb. 982, 970 N.W.2d 94 (2022).

A defendant's appeal of a final order denying a pretrial motion for absolute discharge on statutory speedy trial grounds did not result in appellate jurisdiction to review a nonfinal order that denied the motion on constitutional speedy trial grounds. *State v. Abernathy*, 310 Neb. 880, 969 N.W.2d 871 (2022).

A court order dismissing a petition for the removal of the personal representatives of an estate and the appointment of a special administrator operates as a final, appealable order where the dismissal cannot be vindicated on appeal from any other potential final judgment or resolution of the case, and the order affected an essential legal right of the appellant. *In re Estate of Lakin*, 310 Neb. 271, 965 N.W.2d 365 (2021).

25-1911.

The word "court" means not only the tribunal over which a judge presides, but the judge himself or herself when exercising, at chambers, judicial power conferred by statute. *Nebraska Republican Party v. Shively*, 311 Neb. 160, 971 N.W.2d 128 (2022).

A defendant's appeal of a final order denying a pretrial motion for absolute discharge on statutory speedy trial grounds did not result in appellate jurisdiction to review a nonfinal order that denied the motion on constitutional speedy trial grounds. *State v. Abernathy*, 310 Neb. 880, 969 N.W.2d 871 (2022).

ANNOTATIONS

25-1912.

An appeal challenging an order's appointment of a receiver must be filed within 30 days of its entry. *Seid v. Seid*, 310 Neb. 626, 967 N.W.2d 253 (2021).

Misidentification of the appealing party in a notice of appeal is not a fatal flaw depriving the court of appellate jurisdiction, because this section does not require the notice to include the appellant's name. *In re Estate of Lakin*, 310 Neb. 271, 965 N.W.2d 365 (2021).

There is nothing in subsection (1) of this section that requires a notice of appeal to include the appellant's name. *In re Estate of Lakin*, 310 Neb. 271, 965 N.W.2d 365 (2021).

The modification of a child custody action and a contempt action for failure to pay child support presented separate issues, even though both were heard at the same time; one sought new relief, and the other sought to enforce relief previously granted; each order needed to be timely appealed. *State on behalf of Nathaniel R. v. Shane F.*, 30 Neb. App. 797, 973 N.W.2d 191 (2022).

25-2001.

A court treats a motion to reinstate a case after an order of dismissal as a motion to vacate the order, and a court generally has jurisdiction over a motion to vacate an order of dismissal and reinstate a case. *Schaaf v. Schaaf*, 312 Neb. 1, 978 N.W.2d 1 (2022).

The district court's authority to reinstate a case following its grant of partial summary judgment on one of several claims was unaffected by the plaintiffs' voluntary dismissal of the entire action, to which the plaintiffs were not statutorily entitled. *Schaaf v. Schaaf*, 312 Neb. 1, 978 N.W.2d 1 (2022).

25-2121.

The willful refusal of a garnishee who serves as the plan administrator for a judgment debtor's employee benefits plan to comply with section 25-1026 may constitute contempt. *Florence Lake Investments v. Berg*, 312 Neb. 183, 978 N.W.2d 308 (2022).

25-2225.

In a summary proceeding under section 32-624 before a district court judge, it was not an abuse of discretion to deny discovery. *Nebraska Republican Party v. Shively*, 311 Neb. 160, 971 N.W.2d 128 (2022).

25-2301.01.

The timing of the appellant's execution of the poverty affidavit is not, like an "affiant" personally signing the "affidavit," fundamental to the concept of an "affidavit" set forth in this section. *State v. Blake*, 310 Neb. 769, 969 N.W.2d 399 (2022).

25-2610.

An award does not become so vague and indefinite as to be unenforceable simply because a party can argue that a portion of it may be unclear or ambiguous. The Nebraska Court of Appeals erred in finding the award ambiguous and in ordering a remand to the arbitrator for clarification. *Signal 88 v. Lyconic*, 310 Neb. 824, 969 N.W.2d 651 (2022).

An award may be recommitted for clarification where it is ambiguous to such an extent that it is impossible to determine its meaning and intent. However, remand for clarification is not the preferred course. When possible, courts should avoid remanding on the basis of ambiguity because of the interest in prompt and final arbitration. *Signal 88 v. Lyconic*, 310 Neb. 824, 969 N.W.2d 651 (2022).

In considering an application for confirmation of an arbitration award, the court has limited authority under this statutory section to remand to the arbitrator to clarify an ambiguous award. *Signal 88 v. Lyconic*, 310 Neb. 824, 969 N.W.2d 651 (2022).

Where an ambiguity can be resolved by the record, the district court need not remand for clarification; but where the ambiguity is not resolved by the record, the court must remand for clarification. *Signal 88 v. Lyconic*, 310 Neb. 824, 969 N.W.2d 651 (2022).

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25-2612.

Courts must give extreme deference to the arbitrator's conclusions; the standard of judicial review of arbitral awards is among the narrowest known to law. *Signal 88 v. Lyconic*, 310 Neb. 824, 969 N.W.2d 651 (2022).

Strong deference is due to an arbitral tribunal, because when parties agree to arbitration, they agree to accept whatever reasonable uncertainties might arise from the process. *Signal 88 v. Lyconic*, 310 Neb. 824, 969 N.W.2d 651 (2022).

Under Nebraska's Uniform Arbitration Act, a court may not overrule an arbitrator's decision simply because the court believes that its own interpretation of the contract, or the facts, would be the better one. *Signal 88 v. Lyconic*, 310 Neb. 824, 969 N.W.2d 651 (2022).

Where arbitration is contemplated, the courts are not equipped to provide the same judicial review given to structured judgments defined by procedural rules and legal principles. Parties should be aware that they get what they bargain for and that arbitration is far different from adjudication. *Signal 88 v. Lyconic*, 310 Neb. 824, 969 N.W.2d 651 (2022).

Within sixty days of the application of a party, the court shall confirm an award, unless within the time limits hereinafter imposed grounds are urged for vacating or modifying or correcting the award. The court's obligation is mandatory rather than discretionary. *Signal 88 v. Lyconic*, 310 Neb. 824, 969 N.W.2d 651 (2022).

27-412.

In a sexual assault prosecution, the trial court did not abuse its discretion in prohibiting the defendant from asking the complaining witness about an allegation that she made against a doctor regarding inappropriate touching during a prenatal examination. *State v. Ali*, 312 Neb. 975, 981 N.W.2d 821 (2022).

27-513.

A person cannot prove he or she suffered ineffective assistance of counsel by his or her counsel's failure to call a witness who would have most likely invoked Fifth Amendment protections against self-incrimination, because the trial court would have barred the witness from testifying to avoid the witness from claiming privilege in the presence of the jury. *State v. Britt*, 310 Neb. 69, 963 N.W.2d 533 (2021).

27-801.

The evidence established that statements of the chief financial officer and an employee were made by agents of the company within the scope of their employment. *Noah's Ark Processors v. UniFirst Corp.*, 310 Neb. 896, 970 N.W.2d 72 (2022).

27-803.

Statements having a dual medical and investigatory purpose are admissible under subdivision (4) of this section, only if the proponent of the statements demonstrates that (1) the declarant's purpose in making the statements was to assist in the provision of medical diagnosis or treatment and (2) the statements were of a nature reasonably pertinent to medical diagnosis or treatment by a medical professional. *In re Interest of Xandria P.*, 311 Neb. 591, 973 N.W.2d 692 (2022).

The fundamental inquiry to determine whether statements, made by a declarant who knew law enforcement was listening, had a medical purpose is if the challenged statement had some value in diagnosis or treatment, because the patient would still have the requisite motive for providing the type of sincere and reliable information that is important to diagnosis and treatment. *In re Interest of Xandria P.*, 311 Neb. 591, 973 N.W.2d 692 (2022).

The testimony of the forensic interview specialist and the recorded forensic interview itself provide adequate foundation for admitting a juvenile's recorded testimony under subdivision (4) of this section. *In re Interest of Xandria P.*, 311 Neb. 591, 973 N.W.2d 692 (2022).

28-105.

The statutory provisions of section 29-2204.02 and this section relating to post-release supervision are mandatory, and a sentence that fails to impose post-release supervision when required is an appropriate matter for an appellate court's discretionary plain error review. *State v. Roth*, 311 Neb. 1007, 977 N.W.2d 221 (2022).

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28-105.01.

The phrase "notwithstanding any other provision of law" in this section neither impacts nor overrides the procedural and time limitations applicable to postconviction motions under the Nebraska Postconviction Act. *State v. Lotter*, 311 Neb. 878, 976 N.W.2d 721 (2022).

28-310.

Subdivision (1)(b) of this section is violated when a person acts in such a manner as to intentionally cause a reasonable person in the position of the one threatened to feel apprehension of being bodily harmed. *State v. Grant*, 310 Neb. 700, 968 N.W.2d 837 (2022).

28-311.

For the purposes of this section, "undertaking the activity" refers to the act or acts that formed the liability under subsection (1). *State v. Kipple*, 310 Neb. 654, 968 N.W.2d 613 (2022).

The defendant bears the burden of showing that he or she had the express or implied permission of the parent, guardian, or other legal custodian of the child in undertaking the activity. *State v. Kipple*, 310 Neb. 654, 968 N.W.2d 613 (2022).

28-311.01.

Because this section requires that the threat be communicated to another, a recipient is an essential element of the crime of terroristic threats. *State v. Godek*, 312 Neb. 1004, 981 N.W.2d 810 (2022).

The word "another," as used in this section, refers to the person hearing or receiving the threat. *State v. Godek*, 312 Neb. 1004, 981 N.W.2d 810 (2022).

The word "threaten," as used in this section, requires communication of a threat to a listener or recipient. *State v. Godek*, 312 Neb. 1004, 981 N.W.2d 810 (2022).

Whether or not based on "words only," this section does not require that the threatened crime of violence be imminent. *State v. Bryant*, 311 Neb. 206, 971 N.W.2d 146 (2022).

Whether words constitute a threat depends on the context of the interaction between the people involved and is not to be determined solely based upon the literal meaning of the words standing alone. *State v. Bryant*, 311 Neb. 206, 971 N.W.2d 146 (2022).

28-311.11.

If a court is considering an alternate form of protection order than was requested by the petitioner, pursuant to subsection (8) of this section, the court must ensure that the respondent has been notified of the ultimate theory selected and that the respondent has had a fair opportunity to address that theory. *Yerania O. v. Juan P.*, 310 Neb. 749, 969 N.W.2d 121 (2022).

To satisfy the requirement of specific findings under subsection (8) of this section, the court must set forth the reasoning for its order, explaining why its conclusion is appropriate, rather than simply quoting the statutory language. *Yerania O. v. Juan P.*, 310 Neb. 749, 969 N.W.2d 121 (2022).

28-318.

A conviction for first degree sexual assault through the use of deception was supported by evidence that the victim, a young aspiring Olympian who trained at the defendant's gym, was told by the defendant that he needed to sexually penetrate her with his fingers to "adjust" her pelvis, that the defendant was 35 years older than the victim, that the defendant used deception for years to obtain the victim's consent and escalate the nature of the sexual penetration, and that the defendant told the victim that the penetration was necessary for "recovery" when she protested. *State v. Anders*, 311 Neb. 958, 977 N.W.2d 234 (2022).

The word "deception" means words or conduct, or both words and conduct, causing the victim to believe what is false. *State v. Anders*, 311 Neb. 958, 977 N.W.2d 234 (2022).

Pursuant to subdivision (6) of this section, fellatio is defined as the oral stimulation of the penis for the purpose of sexual satisfaction. *State v. Garcia*, 311 Neb. 648, 974 N.W.2d 305 (2022).

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Pursuant to subdivision (6) of this section, fellatio meets the definition of penetration regardless of whether the victim is forced to fellate the defendant or the defendant fellates the victim. *State v. Garcia*, 311 Neb. 648, 974 N.W.2d 305 (2022).

Under subdivision (8)(a)(iv) of this section, consent to sexual penetration that was the result of the actor's deception as to the identity of the actor qualifies as being without consent. *State v. Prado*, 30 Neb. App. 223, 967 N.W.2d 696 (2021).

28-319.

A conviction for first degree sexual assault through the use of deception was supported by evidence that the victim, a young aspiring Olympian who trained at the defendant's gym, was told by the defendant that he needed to sexually penetrate her with his fingers to "adjust" her pelvis, that the defendant was 35 years older than the victim, that the defendant used deception for years to obtain the victim's consent and escalate the nature of the sexual penetration, and that the defendant told the victim that the penetration was necessary for "recovery" when she protested. *State v. Anders*, 311 Neb. 958, 977 N.W.2d 234 (2022).

A defendant who fellates a victim without consent is guilty of first degree sexual assault. *State v. Garcia*, 311 Neb. 648, 974 N.W.2d 305 (2022).

28-320.

Pursuant to subsection (1) of this section, common sense alone establishes that a child of 5 or 6 years of age is incapable of understanding the nature of sexual conduct as a matter of law. *In re Interest of Gunner B.*, 312 Neb. 697, 980 N.W.2d 863 (2022).

28-358.

The statutory definition of exploitation does not require proof of a financial crime. *State v. Vanderford*, 312 Neb. 580, 980 N.W.2d 397 (2022).

28-416.

For purposes of subsection (1) of this section, circumstantial evidence that a defendant received controlled substances in amounts larger than are typically associated with personal use can be sufficient to support a finding of intent to distribute. *State v. Worthman*, 311 Neb. 284, 971 N.W.2d 785 (2022).

28-431.

The State's burden of proof under this section is to show by clear and convincing evidence that such property was used in violation of the act. *State v. \$18,000*, 311 Neb. 621, 974 N.W.2d 290 (2022).

28-701.

A bigamy prosecution can be based on a voidable marriage. *State v. Johnson*, 310 Neb. 527, 967 N.W.2d 242 (2021).

28-904.

Because neither "substantial" nor "substantial force" were defined in either this section or section 28-109, and definitions of such were also absent in the relevant Nebraska case law, the district court's jury instruction, which gave a partial and incomplete dictionary definition, misstated the issue and had a tendency to confuse the jury. The jury reached a guilty verdict 10 minutes after receiving the erroneous supplemental instruction, and thus, the verdict rendered was not surely unattributable to the error and not harmless; the conviction was reversed and the cause remanded for a new trial. *State v. Gaudreault*, 30 Neb. App. 501, 969 N.W.2d 695 (2022).

28-1205.

The operability of a firearm is not relevant to whether it is a firearm under subdivision (1)(a) of this section. *State v. Betancourt-Garcia*, 310 Neb. 440, 967 N.W.2d 111 (2021).

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28-1310.

Making a threat shortly after the inception of a telephone call is usually sufficient circumstantial evidence for a jury to find that the defendant telephoned the victim with the requisite intent to intimidate, threaten, or harass. *State v. Bryant*, 311 Neb. 206, 971 N.W.2d 146 (2022).

Subdivision (1)(b) of this section, in specifying "telephones such individual," does not place a time limit on when the telephone call is made in relation to a telephone call initiated by the victim and does not require that the conversation be a new one. *State v. Bryant*, 311 Neb. 206, 971 N.W.2d 146 (2022).

28-1413.

Subdivision (1) of this section codifies the common-law defense against criminal liability for a parent's use of force in, among other circumstances, punishing his or her child's misbehavior. At common law, a parent, or one standing in the relation of parent, was not liable either civilly or criminally for moderately and reasonably correcting a child, but it was otherwise if the correction was immoderate and unreasonable. *State v. Kilgore*, 30 Neb. App. 273, 967 N.W.2d 743 (2021).

The question of whether a parent's use of physical force to discipline his or her child was protected under subdivision (1) of this section presents a question of fact for the fact finder. *State v. Kilgore*, 30 Neb. App. 273, 967 N.W.2d 743 (2021).

29-818.

The denial of a motion for the return of a seized firearm was improper where the State failed to meet its burden to show the firearm was used by the claimant in an unlawful manner as an instrumentality of a crime. *State v. Zimmer*, 311 Neb. 294, 972 N.W.2d 57 (2022).

This section applies to a motion for the return of seized property where the firearm was seized incident to arrest for discharging a firearm within the city limits, a complaint was later filed charging refusal to obey a lawful order stemming from the incident, and the person pled guilty to this charge. *State v. Zimmer*, 311 Neb. 294, 972 N.W.2d 57 (2022).

29-820.

Traditional, or per se, contraband is defined as "objects the possession of which, without more, constitutes a crime." A claimant has no right to have per se contraband returned to him or her. Derivative contraband are articles which are not inherently illegal, but are used in an unlawful manner. *State v. Zimmer*, 311 Neb. 294, 972 N.W.2d 57 (2022).

29-1207.

A continuance refers to the circumstance where a court proceeding set for one date is postponed to a future date; a continuance must be granted at the request or with the consent of the defendant or his or her counsel before the resulting period of delay is excludable. *State v. Space*, 312 Neb. 456, 980 N.W.2d 1 (2022).

Where the same district court judge found a defendant incompetent to stand trial in a different case on or about the time that the State filed the information against the defendant in the instant case, the State proved by the greater weight of the evidence that the delay due to the competency proceedings and finding of incompetency in the other criminal case against the defendant should be excluded in the instant case under subdivision (4)(a) of this section. *State v. Moore*, 312 Neb. 263, 978 N.W.2d 327 (2022).

The statutory phrase "including, but not limited to" means the pretrial motions listed under subdivision (4)(a) of this section are provided as examples and are not intended to be an exhaustive list. *State v. Webb*, 311 Neb. 694, 974 N.W.2d 317 (2022).

Unless there is no appeal, a motion is not finally granted or determined for speedy trial purposes until an appellate court has finally decided the matter. Thus, periods to be excluded under subdivision (4)(a) of this section include the period of time between the denial of a defendant's pretrial motion and the filing of an interlocutory appeal from that motion, if such appeal is filed. *State v. Bixby*, 311 Neb. 110, 971 N.W.2d 120 (2022).

A defendant's appeal of a final order denying a pretrial motion for absolute discharge on statutory speedy trial grounds did not result in appellate jurisdiction to review a nonfinal order that denied the motion on constitutional speedy trial grounds. *State v. Abernathy*, 310 Neb. 880, 969 N.W.2d 871 (2022).

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A court may find that the risk of exposing trial participants to COVID-19 is good cause to delay a defendant's right to a speedy trial within this section. *State v. Gnanaprakasam*, 310 Neb. 519, 967 N.W.2d 89 (2021).

A defendant permanently waives his or her statutory speedy trial rights under subdivision (4)(b) of this section when an ultimately unsuccessful motion for discharge results in the continuance of a timely trial to a date outside the statutory 6-month period, as calculated on the date the motion for discharge was filed. *State v. Riessland*, 310 Neb. 262, 965 N.W.2d 13 (2021).

Evidence of good cause is properly presented at the hearing on the motion for absolute discharge and need not be articulated at the time of the court's sua sponte order delaying trial. *State v. Chase*, 310 Neb. 160, 964 N.W.2d 254 (2021).

There is no legal principle that requires the good cause shown to be consistent with the court's prior, contemporaneous rationale when sua sponte delaying trial. *State v. Chase*, 310 Neb. 160, 964 N.W.2d 254 (2021).

When a trial court's sua sponte decision to delay trial implicates statutory speedy trial rights, the exclusion of the period attributable to such delay is governed by a showing on the record of good cause as described by subdivision (4)(f) of this section. *State v. Chase*, 310 Neb. 160, 964 N.W.2d 254 (2021).

The statutory speedy trial rights of instate prisoners are governed by sections 29-3801 to 29-3809, and the procedure under this section does not apply to instate prisoners. *State v. LeFever*, 30 Neb. App. 562, 970 N.W.2d 792 (2022).

29-1208.

A defendant's appeal of a final order denying a pretrial motion for absolute discharge on statutory speedy trial grounds did not result in appellate jurisdiction to review a nonfinal order that denied the motion on constitutional speedy trial grounds. *State v. Abernathy*, 310 Neb. 880, 969 N.W.2d 871 (2022).

29-1816.

Pursuant to subdivision (1)(a)(ii) of this section, whether a juvenile court has jurisdiction over a person is determined not by the person's age at the time of the offense, but, rather, by the person's age at the time he or she is charged for the offense. *State v. Pauly*, 311 Neb. 418, 972 N.W.2d 907 (2022).

29-2014.

An information charging conspiracy to commit robbery satisfied the overt act requirement by alleging robbery as both the object of conspiracy and the overt act committed in pursuance thereof. *State v. Davis*, 310 Neb. 865, 969 N.W.2d 861 (2022).

29-2028.

The State is not required to corroborate a victim's testimony in cases of first degree sexual assault, even if the testimony is inconsistent with prior statements; if believed by the finder of fact, the victim's testimony alone is sufficient. *State v. Anders*, 311 Neb. 958, 977 N.W.2d 234 (2022).

29-2203.

The defendant's filing of a notice of intention to rely upon an insanity defense under this section preserved his right to present evidence as to his sanity at trial, but it did not require the trial court to make any determination regarding the defendant's sanity before trial, and it did not preclude the trial court from accepting the defendant's waiver of his right to trial when he entered his no contest pleas. *State v. Warner*, 312 Neb. 116, 977 N.W.2d 904 (2022).

A defendant who pleads that he or she is not responsible by reason of insanity has the burden to prove the defense by a preponderance of the evidence. *State v. John*, 310 Neb. 958, 969 N.W.2d 894 (2022).

Any person prosecuted for an offense may plead that he or she is not responsible by reason of insanity at the time of the offense. *State v. John*, 310 Neb. 958, 969 N.W.2d 894 (2022).

Generally, under Nebraska's common-law definition, the insanity defense requires proof that (1) the defendant had a mental disease or defect at the time of the crime and (2) the defendant did not know or understand the nature

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and consequences of his or her actions or that he or she did not know the difference between right and wrong. *State v. John*, 310 Neb. 958, 969 N.W.2d 894 (2022).

29-2204.

In imposing a sentence subject to a habitual criminal enhancement, a court is not required to pronounce that the sentence is the "mandatory minimum" for the Department of Correctional Services to treat it as such in calculating an inmate's mandatory discharge date. *Gray v. Frakes*, 311 Neb. 409, 973 N.W.2d 166 (2022).

29-2204.02.

The statutory provisions of this section and section 28-105 relating to post-release supervision are mandatory, and a sentence that fails to impose post-release supervision when required is an appropriate matter for an appellate court's discretionary plain error review. *State v. Roth*, 311 Neb. 1007, 977 N.W.2d 221 (2022).

This section encompasses a policy decision by the Legislature favoring probationary sentences for Class IV felonies, and findings required under this section do not necessarily apply to sentencing decisions pertaining to higher-level offenses. *State v. McGovern*, 311 Neb. 705, 974 N.W.2d 595 (2022).

29-2221.

In imposing a sentence subject to a habitual criminal enhancement, a court is not required to pronounce that the sentence is the "mandatory minimum" for the Department of Correctional Services to treat it as such in calculating an inmate's mandatory discharge date. *Gray v. Frakes*, 311 Neb. 409, 973 N.W.2d 166 (2022).

This section requires evidence showing that a defendant has twice been ordered by a court to be committed for at least 1 year to a penal institution, but does not require evidence showing that a defendant actually served a full year in prison pursuant to such order of commitment. *State v. Drake*, 311 Neb. 219, 971 N.W.2d 759 (2022).

29-2260.

A sentence of probation is not excessively lenient, even though the crimes were serious with an egregious set of facts, where the offender was convicted of a Class II felony for which the law prescribed no mandatory minimum sentence, the presentence investigation report showed he is at low risk to reoffend, and the psychological evaluation recognized he was around 14 years of age at the time of the offenses and has not subsequently engaged in any other known or reported forms of sexual misconduct. *State v. Pauly*, 311 Neb. 418, 972 N.W.2d 907 (2022).

29-2264.

The decision of whether to set aside a conviction pursuant to this section is discretionary, and in exercising its discretion, the court must consider the factors specified therein. *State v. Brunsen*, 311 Neb. 368, 972 N.W.2d 405 (2022).

The statutory mandate of this section that the court consider "[a]ny other information the court considers relevant" does not empower the court to rest its decision on irrelevant or erroneous facts or misperceptions of the law. *State v. Brunsen*, 311 Neb. 368, 972 N.W.2d 405 (2022).

29-2306.

Lack of staleness of execution under a particular measure of days is not an essential prerequisite to appellate jurisdiction; under the current statutory scheme, the jurisdictional prerequisite of a filing fee is satisfied when the lower court grants in forma pauperis status after considering a timely filed application and accompanying affidavit that, unless good cause is shown in the record why the appellant could not sign the affidavit, was executed personally by the impoverished appellant. *State v. Blake*, 310 Neb. 769, 969 N.W.2d 399 (2022).

The relative staleness of the execution of a poverty affidavit does not change the mandate of subsection (4) of section 25-1912 that "no step other than the filing of such notice of appeal and the depositing of such docket fee shall be deemed jurisdictional." *State v. Blake*, 310 Neb. 769, 969 N.W.2d 399 (2022).

The relative staleness of the execution of a poverty affidavit does not change the mandate of this section that "[i]f an application to proceed in forma pauperis is filed and granted, the Court of Appeals or Supreme Court shall acquire jurisdiction of the case when the notice of appeal is filed with the clerk of the district court." *State v. Blake*, 310 Neb. 769, 969 N.W.2d 399 (2022).

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29-2308.

For a defendant who has been sentenced consecutively for two or more crimes, an appellate court generally considers the aggregate sentence to determine if it is excessive. *State v. Morton*, 310 Neb. 355, 966 N.W.2d 57 (2021).

It is inappropriate in determining whether a sentence is excessive to opine that the facts better fit a crime the defendant was not convicted of, which would have had a lesser sentence. *State v. Morton*, 310 Neb. 355, 966 N.W.2d 57 (2021).

So long as the facts provide a sufficient basis to find all elements beyond a reasonable doubt for the crimes the defendant is convicted of, whether an alternative crime fits those facts "best" is a matter of prosecutorial discretion and not a reason to question the trial court's sentence on the crimes found to have been committed. *State v. Morton*, 310 Neb. 355, 966 N.W.2d 57 (2021).

29-2322.

When a judge has imposed sentences for several convictions at the same time, an appellate court generally considers the aggregate sentence in considering whether a sentence is excessively lenient. *State v. McGovern*, 311 Neb. 705, 974 N.W.2d 595 (2022).

A sentence of probation is not excessively lenient, even though the crimes were serious with an egregious set of facts, where the offender was convicted of a Class II felony for which the law prescribed no mandatory minimum sentence, the presentence investigation report showed he is at low risk to reoffend, and the psychological evaluation recognized he was around 14 years of age at the time of the offenses and has not subsequently engaged in any other known or reported forms of sexual misconduct. *State v. Pauly*, 311 Neb. 418, 972 N.W.2d 907 (2022).

29-3001.

The State is not required to provide a response to a motion before the court makes a ruling that the motion and the files and records of a case show that the prisoner is entitled to no relief. *State v. Lessley*, 312 Neb. 316, 978 N.W.2d 620 (2022).

The 1-year limitation period for filing a verified motion for postconviction relief was not tolled where the petitioner filed a motion for new trial 344 days after the conclusion of his direct appeal. *State v. Hill*, 310 Neb. 647, 968 N.W.2d 96 (2021).

Because there was evidence in the record supporting the court's credibility findings regarding the deposition testimony of the alibi witnesses, the court did not err in denying the appellant's request for live witnesses at the evidentiary hearing. *State v. Newman*, 310 Neb. 463, 966 N.W.2d 860 (2021).

The procedures a district court uses in evaluating a postconviction action are reviewed for an abuse of discretion. But the district court's discretion must comport with the specific procedural rules mandated by this section. *State v. Newman*, 310 Neb. 463, 966 N.W.2d 860 (2021).

The weight to be accorded to testimony given by deposition, as compared to that given orally in court, must depend, not upon its form, but upon all the circumstances affecting its credibility. *State v. Newman*, 310 Neb. 463, 966 N.W.2d 860 (2021).

29-3523.

This section does not give rise to a legal duty that would subject a private person to civil tort liability for failing to act in the manner prescribed by it. *Doe v. State*, 312 Neb. 665, 980 N.W.2d 842 (2022).

29-3805.

Form VII could not serve to trigger the 180-day period under this section, since it was only filed in the county court and not delivered to the director of the Department of Correctional Services. *State v. LeFever*, 30 Neb. App. 562, 970 N.W.2d 792 (2022).

The certificate contemplated by this section is not restricted to one particular form. *State v. LeFever*, 30 Neb. App. 562, 970 N.W.2d 792 (2022).

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Whether invoked by an inmate prisoner or by the prosecutor, it is the prosecutor's receipt of the statutorily required certificate from the director of the Department of Correctional Services pursuant to section 29-3803 or section 29-3804 which triggers the 180-day period for disposition of untried charges prescribed by this section. *State v. LeFever*, 30 Neb. App. 562, 970 N.W.2d 792 (2022).

29-4119.

DNA testing results that excluded a prisoner as a source of semen found on the victim at the time of her death did not fit within the definition of exculpatory evidence, because the prisoner was not charged with sexual assault, and his exclusion as a source of semen was not material to whether he was guilty of murder or of using a weapon to commit a felony. *State v. Buckman*, 311 Neb. 304, 971 N.W.2d 791 (2022).

29-4123.

The trial court did not abuse its discretion in sustaining the State's motion to dismiss where other credible evidence tied the prisoner to the crimes and the results of DNA testing—which did not detect any blood on certain items—were best regarded as inconclusive, and the results that excluded the prisoner as the source of semen were not material to the crimes charged. *State v. Buckman*, 311 Neb. 304, 971 N.W.2d 791 (2022).

30-2211.

The probate court lacked subject matter jurisdiction under this section to address requests for reimbursement of attorney fees by an heir or devisee from another heir or devisee that were incurred while defending against actions in the district court. *In re Estate of Schurman*, 30 Neb. App. 259, 967 N.W.2d 734 (2021).

30-2223.

The district court did not abuse its discretion in charging a headstone to the estate, even though the decedent's surviving children had already bought one, where no headstone was purchased for approximately 6 months after his death, his mother requested a headstone be purchased, and the personal representative was unaware the children purchased a headstone. *In re Estate of Larson*, 311 Neb. 352, 972 N.W.2d 891 (2022).

30-2408.

A proceeding to appoint a personal representative could be commenced more than 3 years after the decedent's death, because no formal or informal proceeding for probate or proceeding concerning the succession or administration had occurred within the 3-year period. *In re Estate of Severson*, 310 Neb. 982, 970 N.W.2d 94 (2022).

30-2420.

In the absence of qualification, the issuance of letters of personal representative as part of the appointment process is not authorized by this section. *In re Estate of Severson*, 310 Neb. 982, 970 N.W.2d 94 (2022).

30-2429.01.

The county court, and not the district court, has jurisdiction to determine whether a personal representative or nominated personal representative should be reimbursed by the estate for attorney fees incurred in a will contest that is initiated during probate proceedings in the county court but that is transferred to the district court. *In re Estate of Koetter*, 312 Neb. 549, 980 N.W.2d 376 (2022).

The fact that a district court has obtained, via the transfer of the will contest under subsection (3) of this section, "jurisdiction over the proceeding on the contest" does not divest the county court of its original jurisdiction in probate to protect the estate during the pendency of that will contest by considering the merits of a petition for a special administrator and request for a restraining order on the personal representative. *In re Estate of Anderson*, 311 Neb. 758, 974 N.W.2d 847 (2022).

30-2444.

In the absence of qualification, the issuance of letters of personal representative as part of the appointment process is not authorized by this section. *In re Estate of Severson*, 310 Neb. 982, 970 N.W.2d 94 (2022).

Without acceptance by one appointed personal representative, there can be no qualification. *In re Estate of Severson*, 310 Neb. 982, 970 N.W.2d 94 (2022).

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30-2457.

An order denying a petition for a special administrator under this section and a concurrent request under this section for an order restraining the personal representative of the decedent's estate is a final, appealable order. In re Estate of Anderson, 311 Neb. 758, 974 N.W.2d 847 (2022).

30-2464.

The district court erred in granting summary judgment to the copersonal representatives on the claim they breached their fiduciary duties where the estate's payment of a promissory note was invalid and, as such, there was a genuine issue of material fact as to the breach claim. In re Estate of Lakin, 310 Neb. 271, 965 N.W.2d 365 (2021).

30-2481.

The county court, and not the district court, has jurisdiction to determine whether a personal representative or nominated personal representative should be reimbursed by the estate for attorney fees incurred in a will contest that is initiated during probate proceedings in the county court but that is transferred to the district court. In re Estate of Koetter, 312 Neb. 549, 980 N.W.2d 376 (2022).

The district court did not abuse its discretion in finding that the personal representative acted in good faith in incurring attorney fees where the record showed she defended the will against vexatious litigation pursued by the decedent's children and to preserve the decedent's wishes, and her defense of the will was not primarily to increase her compensation. In re Estate of Larson, 311 Neb. 352, 972 N.W.2d 891 (2022).

This section does not allow the county court to deny fees because it finds that the personal representative or nominated personal representative who prosecuted or defended a proceeding in good faith should have known that the litigation position it took lacked merit, but the objective merits of a legal position could be relevant to whether a person defended or prosecuted a proceeding in good faith. In re Estate of Giventer, 310 Neb. 39, 964 N.W.2d 234 (2021).

30-2482.

The county court, and not the district court, has jurisdiction to determine whether a personal representative or nominated personal representative should be reimbursed by the estate for attorney fees incurred in a will contest that is initiated during probate proceedings in the county court but that is transferred to the district court. In re Estate of Koetter, 312 Neb. 549, 980 N.W.2d 376 (2022).

30-2483.

Where the debt was for deferred wages earned by the claimant during the decedent's life, rather than wages earned after the decedent's death or an administrative expense of the estate, a claim must be filed pursuant to this section in order for the debt to be a valid debt of the estate. In re Estate of Lakin, 310 Neb. 271, 965 N.W.2d 365 (2021).

30-2485.

For purposes of this section, a demand against the trust assets is not a claim against the decedent's estate. In re Estate of Giventer, 310 Neb. 39, 964 N.W.2d 234 (2021).

30-2486.

The claimant failed to properly file or present a claim against the decedent's estate when he discussed a promissory note with the copersonal representative and the attorney for the personal representatives approximately 29 days after the decedent's death and mailed a copy of the note, a letter, and his calculation of interest to them the next day. In re Estate of Lakin, 310 Neb. 271, 965 N.W.2d 365 (2021).

For purposes of this section, a demand against the trust assets is not a claim against the decedent's estate. In re Estate of Giventer, 310 Neb. 39, 964 N.W.2d 234 (2021).

30-24,100.

The district court did not misapply the rules of abatement where one party was devised 50.6 percent of the property specifically devised by the will and the other party was devised 49.4 percent, and the debts and funeral and

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administrative expenses were apportioned 50 percent to each. In re Estate of Larson, 311 Neb. 352, 972 N.W.2d 891 (2022).

30-24,107.

Under this section, intervenors in a probate action do not have standing to maintain an action against a distributee to recoup property claimed to have been wrongfully distributed or retained. In re Estate of Schurman, 30 Neb. App. 259, 967 N.W.2d 734 (2021).

30-4204.

This section empowers the guardian ad litem to obtain information as part of his or her investigation and permits for the admissibility of the information so collected. By its plain terms, this section addresses "material obtained by a guardian ad litem" and does not pertain to a report created by a guardian ad litem. In re Guardianship of Jill G., 312 Neb. 108, 977 N.W.2d 913 (2022).

32-207.

Because the Legislature did not intend election commissioners and chief deputies to be considered county officers, this section and section 32-209 are constitutional in light of article IX, sec. 4, of the Nebraska Constitution. State ex rel. Peterson v. Shively, 310 Neb. 1, 963 N.W.2d 508 (2021).

32-209.

Because the Legislature did not intend election commissioners and chief deputies to be considered county officers, section 32-207 and this section are constitutional in light of article IX, sec. 4, of the Nebraska Constitution. State ex rel. Peterson v. Shively, 310 Neb. 1, 963 N.W.2d 508 (2021).

32-624.

In an appeal from a proceeding under this section, a trial court's factual findings have the effect of a verdict and will not be set aside unless clearly erroneous. An appellate court does not reweigh evidence, but considers the evidence in the light most favorable to the successful party and resolves evidentiary conflicts in favor of the successful party, who is entitled to every reasonable inference deducible from the evidence. Regarding a question of law, an appellate court has an obligation to reach a conclusion independent from a judge's conclusion in an order under review. Nebraska Republican Party v. Shively, 311 Neb. 160, 971 N.W.2d 128 (2022).

The Nebraska Supreme Court or Nebraska Court of Appeals may exercise appellate jurisdiction over an appeal from a district court judge's order under this section. Nebraska Republican Party v. Shively, 311 Neb. 160, 971 N.W.2d 128 (2022).

36-103.

An oral land installment contract, on its own, does not create an interest in land. Kauk v. Kauk, 310 Neb. 329, 966 N.W.2d 45 (2021).

36-105.

An oral land installment contract, on its own, is not within this section. Kauk v. Kauk, 310 Neb. 329, 966 N.W.2d 45 (2021).

36-106.

The proponent of an oral land installment contract fails to satisfy his or her burden to prove the terms of the contract were clear, satisfactory, and unequivocal if he or she does not refute evidence that the parties to the contract never came to a final agreement on its terms. Kauk v. Kauk, 310 Neb. 329, 966 N.W.2d 45 (2021).

36-202.

The "leading object rule" applied as an exception to the statute of frauds in this case and rendered the oral promise to pay the debt of another enforceable. Under the leading object rule, a promise to answer for the debt of another will be valid, although not in writing, when the principal object of the party promising to pay the debt is to promote

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his or her own interests—and not to become a guarantor or surety—and when the promise is made on sufficient consideration. *Alliance Group v. NGC Group*, 30 Neb. App. 439, 970 N.W.2d 505 (2021).

39-1345.

This section describes the authority and responsibilities of the Nebraska Department of Transportation regarding temporary closures of state highways. *Porter v. Knife River, Inc.*, 310 Neb. 946, 970 N.W.2d 104 (2022).

42-103.

A marriage that is void is not valid for any legal purpose. *State v. Johnson*, 310 Neb. 527, 967 N.W.2d 242 (2021).

It is generally held that a marriage is not void unless the statutes expressly so declare and that courts should not so construe it unless the legislative intent to such effect is clear and unequivocal. *State v. Johnson*, 310 Neb. 527, 967 N.W.2d 242 (2021).

42-114.

An ordained minister was authorized to perform a valid marriage ceremony where there was no evidence casting doubt on the minister's authority to solemnize the marriage and where the purported wife believed she had been lawfully joined in marriage. *State v. Johnson*, 310 Neb. 527, 967 N.W.2d 242 (2021).

42-117.

If Texas law applied to a situation where a Nebraska marriage license was obtained but the solemnization occurred in Texas, and if Texas would recognize the marriage as valid, then Nebraska would also recognize the marriage as valid. *State v. Johnson*, 310 Neb. 527, 967 N.W.2d 242 (2021).

If a marriage is valid where it was contracted, it will be held to be valid everywhere, and if invalid by *lex loci contractus*, it will be invalid wherever question may arise. *Nelson v. Richardson-Nelson*, 30 Neb. App. 15, 964 N.W.2d 463 (2021).

42-118.

A marriage is voidable when it has legal imperfections in its establishment which can be inquired into only during the lives of both of the parties in a proceeding by annulment to obtain a judgment of a competent court declaring its invalidity. *State v. Johnson*, 310 Neb. 527, 967 N.W.2d 242 (2021).

42-365.

In addition to the specific criteria listed in this section, a court should consider the income and earning capacity of each party and the general equities of the situation. *Nelson v. Richardson-Nelson*, 30 Neb. App. 15, 964 N.W.2d 463 (2021).

42-924.

A new act of abuse is not a prerequisite for renewal of a domestic abuse protection order; however, it may be considered in determining the continuing likelihood of future harm. *Garrison v. Otto*, 311 Neb. 94, 970 N.W.2d 495 (2022).

An evidentiary hearing on the petition for renewal should be held, unless the respondent fails to appear or indicates he or she does not contest the renewal. *Garrison v. Otto*, 311 Neb. 94, 970 N.W.2d 495 (2022).

Because the question of the likelihood of future harm and the relative equities of the case pertain to a different effective period of time, the court's prior determinations of these matters are not law of the case. *Garrison v. Otto*, 311 Neb. 94, 970 N.W.2d 495 (2022).

The purpose of a hearing on the petition for renewal is to receive evidence so that the court may reweigh the burdens the order will inflict against its benefits in light of all the relevant circumstances, including what has or has not changed since its issuance. *Garrison v. Otto*, 311 Neb. 94, 970 N.W.2d 495 (2022).

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The requisite past act of domestic abuse is necessarily found in relation to the underlying protection order; it is law of the case and not to be relitigated simply because the petitioner seeks a renewal of the order. *Garrison v. Otto*, 311 Neb. 94, 970 N.W.2d 495 (2022).

Even though a court has subject matter jurisdiction to hear a request for a domestic abuse protection order, the defendant may file to transfer the action to a more appropriate venue pursuant to section 25-403.01. *Jacobo v. Zoltenko*, 30 Neb. App. 44, 965 N.W.2d 32 (2021).

42-925.

When a petition and affidavit for a domestic abuse protection order satisfy the requirements of section 42-924, the court is required to issue an ex parte domestic abuse protection order or schedule an evidentiary hearing. *Jacobo v. Zoltenko*, 30 Neb. App. 44, 965 N.W.2d 32 (2021).

43-246.01.

Pursuant to subdivision (3)(c) of this section, whether a juvenile court has jurisdiction over a person is determined not by the person's age at the time of the offense, but, rather, by the person's age at the time he or she is charged for the offense. *State v. Pauly*, 311 Neb. 418, 972 N.W.2d 907 (2022).

43-246.02.

A bridge order might, in some instances, be a reasonable alternative to termination of parental rights, but there is no burden on the State to prove that termination is the only reasonable alternative available. The only burden on the State is to prove, by clear and convincing evidence, that termination of parental rights is in the best interests of the child and that one or more of the conditions set out in section 43-292 exists. In *re Interest of Madison T. et al.*, 30 Neb. App. 470, 970 N.W.2d 122 (2022).

Subdivision (1)(d) of this section indicates that a bridge order is appropriate only when the juvenile case can safely be closed. In this case, wherein the State sought to terminate the mother's parental rights to her children, placement of the children with their respective fathers may have been the best alternative while these cases were pending, but the record was not sufficient to conclude that the children's fathers should have been awarded permanent custody, at least at that time. Thus, it was not in the children's best interests for the juvenile court to terminate its jurisdiction over them. Because subdivision (1)(d) of this section had not been met, bridge orders were not in the children's best interests. In *re Interest of Madison T. et al.*, 30 Neb. App. 470, 970 N.W.2d 122 (2022).

43-247.

The purpose of the adjudication phase is to protect the interests of the child. The parents' rights are determined at the dispositional phase, not at the adjudication phase. At the adjudication phase, in order for a juvenile court to assume jurisdiction of minor children under subdivision (3)(a) of this section, the State must prove the allegations of the petition by a preponderance of the evidence. In *re Interest of Xandria P.*, 311 Neb. 591, 973 N.W.2d 692 (2022).

Pursuant to subdivision (12) of this section, whether a juvenile court has jurisdiction over a person is determined not by the person's age at the time of the offense, but, rather, by the person's age at the time he or she is charged for the offense. *State v. Pauly*, 311 Neb. 418, 972 N.W.2d 907 (2022).

Prior to adjudicating a child under this section, a juvenile court lacks jurisdiction over the juvenile's parents, guardians, or custodians. In *re Interest of Marquee N.*, 30 Neb. App. 862, 974 N.W.2d 26 (2022).

43-250.

The State's failure to comply with the statutory requirements relating to the entry of an ex parte temporary detention order does not deprive the juvenile court of jurisdiction. In *re Interest of Xandria P.*, 311 Neb. 591, 973 N.W.2d 692 (2022).

43-276.

A juvenile court has concurrent jurisdiction over a person charged in the district court who is younger than 18 years of age when the allegedly committed acts constitute Class I, IA, IB, IC, ID, II, and IIA felonies and who has not yet reached the age of majority during the course of the proceedings requesting transfer from the district court to the juvenile court. *State v. Burris*, 30 Neb. App. 109, 965 N.W.2d 828 (2021).

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43-292.

A child's best interests are presumed to be served by having a relationship with his or her parent, which presumption is overcome only when the State has proved that the parent is unfit. In re Interest of Destiny H. et al., 30 Neb. App. 885, 974 N.W.2d 343 (2022).

A termination of parental rights is a final and complete severance of the child from the parent and removes the entire bundle of parental rights, and parental rights should be terminated only in the absence of any reasonable alternative and as a last resort. In re Interest of Destiny H. et al., 30 Neb. App. 885, 974 N.W.2d 343 (2022).

Any one of the bases for termination of parental rights codified by this section can serve as a basis for termination of parental rights when coupled with evidence that termination is in the best interests of the children. In re Interest of Destiny H. et al., 30 Neb. App. 885, 974 N.W.2d 343 (2022).

Rather than requiring perfection of a parent, courts should look for the parent's continued improvement in parenting skills and a beneficial relationship between parent and child. In re Interest of Destiny H. et al., 30 Neb. App. 885, 974 N.W.2d 343 (2022).

Subdivision (7) of this section operates mechanically and does not require the State to adduce evidence of any specific fault on the part of the parent. In re Interest of Destiny H. et al., 30 Neb. App. 885, 974 N.W.2d 343 (2022).

Whereas statutory grounds for termination of parental rights are based on a parent's past conduct, the best interests inquiry focuses on the future well-being of the child. In re Interest of Destiny H. et al., 30 Neb. App. 885, 974 N.W.2d 343 (2022).

Although a statutory ground did exist to terminate the father's parental rights in this case, the State did not meet its burden to prove by clear and convincing evidence that the father was unfit or that it was in the child's best interests for the father's parental rights to be terminated at that time. Given the impact of the COVID-19 pandemic on institutional programming and availability, case manager communications, and visitations, along with the short timeframe before the father's release from incarceration, the father should have been given some additional time to show he could make progress on his case goals and parent his child before the State sought to terminate his parental rights. In re Interest of Xaiden N., 30 Neb. App. 378, 968 N.W.2d 856 (2021).

An incarcerated parent does not need to be physically present at a hearing to terminate parental rights, so long as the parent is afforded procedural due process. In re Interest of Joezia P., 30 Neb. App. 281, 968 N.W.2d 101 (2021).

In termination of parental rights cases, it is proper to consider a parent's inability to perform his or her parental obligations because of imprisonment and the nature of the crime committed, as well as the person against whom the criminal act was perpetrated. In re Interest of Joezia P., 30 Neb. App. 281, 968 N.W.2d 101 (2021).

The juvenile court may consider the following factors when determining whether to allow an incarcerated parent to be present at a hearing to terminate parental rights: (1) the anticipated delay, (2) the need for prompt disposition, (3) the length of time during which the case has been pending, (4) the expense of transportation, (5) the inconvenience or detriment to the parties or witnesses, (6) the potential danger or security risk, (7) the availability of the parent's testimony through means other than physical attendance, and (8) the best interests of the child. In re Interest of Joezia P., 30 Neb. App. 281, 968 N.W.2d 101 (2021).

To terminate parental rights under this section, the State must prove, by clear and convincing evidence, that one or more of the statutory grounds is satisfied and that termination is in the best interests of the child. In re Interest of Joezia P., 30 Neb. App. 281, 968 N.W.2d 101 (2021).

Whether a parent who is incarcerated or otherwise confined in custody has been afforded procedural due process for a hearing to terminate parental rights is within the discretion of the trial court, whose decision on appeal will be upheld in the absence of an abuse of discretion. In re Interest of Joezia P., 30 Neb. App. 281, 968 N.W.2d 101 (2021).

While incarceration alone is not a basis for termination of parental rights, a parent's incarceration may be considered along with other factors in determining whether parental rights can be terminated based on neglect. In re Interest of Joezia P., 30 Neb. App. 281, 968 N.W.2d 101 (2021).

43-1311.02.

"Sibling," under the Foster Care Review Act generally and under subsection (9) of this section specifically, means a person with whom one shares a common parent or parents. In re Interest of Jordon B., 312 Neb. 827, 981 N.W.2d 242 (2022).

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43-1802.

Pursuant to subdivision (1)(b) of this section, the fact that the granting of a petition for grandparent visitation might be unconstitutional as applied does not deprive a court of subject matter jurisdiction over a petition; rather, it simply means that the grandparent visitation statutes cannot be constitutionally applied to a particular scenario. *Kane v. Kane*, 311 Neb. 657, 974 N.W.2d 312 (2022).

43-1803.

Pursuant to subsection (1) of this section, the fact that the granting of a petition for grandparent visitation might be unconstitutional as applied does not deprive a court of subject matter jurisdiction over a petition; rather, it simply means that the grandparent visitation statutes cannot be constitutionally applied to a particular scenario. *Kane v. Kane*, 311 Neb. 657, 974 N.W.2d 312 (2022).

43-2922.

In the absence of an explicit contrary definition in a parenting plan, the term "joint legal custody" must be construed according to its statutory definition in the Parenting Act. *Vyhlidal v. Vyhlidal*, 311 Neb. 495, 973 N.W.2d 171 (2022).

The definitions in the Parenting Act of "legal custody" and "joint legal custody" are terms of art having clear and unambiguous meaning. *Vyhlidal v. Vyhlidal*, 311 Neb. 495, 973 N.W.2d 171 (2022).

Under the Parenting Act, joint legal custody involves mutual authority and responsibility of the parents while legal custody does not. *Vyhlidal v. Vyhlidal*, 311 Neb. 495, 973 N.W.2d 171 (2022).

Pursuant to subdivision (17) of this section, the parental relationship should be found to exist only if the facts and circumstances show that the individual means to take the place of the lawful parent, not only in providing support but also with reference to the natural parent's office of educating and instructing and caring for the general welfare of the child. The mother's former boyfriend did not stand in loco parentis to the child because he had a minimal role in fulfilling parenting functions during the parties' relationship and after their separation; his role primarily entailed playing with the child and looking after her for brief periods of time. *Peister v. Eurek*, 30 Neb. App. 366, 969 N.W.2d 134 (2021).

43-2923.

Even though the district court did not conduct an in camera interview of the child, it did have in evidence the child's handwritten note with "testimony" written at the top of the first page. In the letter, the child stated what custody and parenting time arrangement she hoped for and explained her reasoning. Under the circumstances, that was sufficient to assess the child's "desires and wishes" for purposes of subdivision (6)(b) of this section. *Toro v. Toro*, 30 Neb. App. 158, 966 N.W.2d 519 (2021).

Limiting the father to supervised parenting time was supported by evidence of his verbal threats and physically abusive behaviors toward the mother, an altercation with his girlfriend and her ex-boyfriend, and the father's allowance of his girlfriend to be around the children, despite court orders prohibiting the girlfriend's presence around the children. *Toro v. Toro*, 30 Neb. App. 158, 966 N.W.2d 519 (2021).

43-2929.

A determination of legal custody is a mandatory and indispensable part of a parenting plan. *Vyhlidal v. Vyhlidal*, 311 Neb. 495, 973 N.W.2d 171 (2022).

43-2932.

To meet the requirement for "special written findings" under subsection (3) of this section, the court must, at a minimum, specifically state that it finds that the children and the other parent may be adequately protected from harm by the limits the court has actually imposed in the parenting plan. The court's findings should also indicate that the court recognized that the burden on this issue was on the parent found to have committed the abuse. The court should further identify what limits it imposed in the parenting plan that it finds will provide the necessary protection. *Franklin M. v. Lauren C.*, 310 Neb. 927, 969 N.W.2d 882 (2022).

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44-359.

When a party brings an action to foreclose a construction lien and a surety bond is subsequently obtained to substitute as collateral, the action is not one brought upon the surety bond. *Echo Group v. Tradesmen Internat.*, 312 Neb. 729, 980 N.W.2d 869 (2022).

Where a court's determination respecting insurance coverage was reversed on appeal, a lower-than-requested attorney fee award was vacated and the cause remanded accordingly where the record supported an inference that the amount was tied to the result of the suit and not a calculation of the fees' value. *North Star Mut. Ins. Co. v. Miller*, 311 Neb. 941, 977 N.W.2d 195 (2022).

44-3,128.01.

Attorney fees are not within the field specified by this section, because the statutory language is silent as to attorney fees and there is no indication that the Legislature intended to restrict or preclude the common fund doctrine. *Hauptman, O'Brien v. Auto-Owners Ins. Co.*, 310 Neb. 147, 964 N.W.2d 264 (2021).

44-2828.

The continuous treatment doctrine for limitations in a malpractice action applies only for incorrect treatment based on misdiagnosis or other continuing course of negligent treatment. *Bogue v. Gillis*, 311 Neb. 445, 973 N.W.2d 338 (2022).

45-103.02.

Prejudgment interest is authorized when there is not a dispute as to the amount due on a claim or to the plaintiff's right to recover. *Echo Group v. Tradesmen Internat.*, 312 Neb. 729, 980 N.W.2d 869 (2022).

45-103.04.

This section does not limit a court's equitable powers to order a party to pay interest. *Becher v. Becher*, 311 Neb. 1, 970 N.W.2d 472 (2022).

45-104.

An award of prejudgment interest is authorized in an action to foreclose a construction lien. *Echo Group v. Tradesmen Internat.*, 312 Neb. 729, 980 N.W.2d 869 (2022).

47-502.

Where an offender is originally sentenced to post-release supervision and is later resentenced to confinement in a county jail following the revocation of post-release supervision, the offender is entitled to good time reduction of his or her county jail sentence. *State v. Knight*, 311 Neb. 485, 973 N.W.2d 356 (2022).

48-148.

When an employee is compensated for the inability to work due to a physical injury that arose out of and in the course of employment, the Nebraska Workers' Compensation Act is the exclusive remedy for refusing to return the injured employee to suitable work and the employee cannot seek additional remedies under the Nebraska Fair Employment Practice Act for terminating his or her employment on the basis of the disability caused by the same workplace injury. *Dutcher v. Nebraska Dept. of Corr. Servs.*, 312 Neb. 405, 979 N.W.2d 245 (2022).

48-162.01.

Where a prior award by the compensation court provided medical or physical rehabilitation services, the compensation court may modify the award of such services to the extent that the compensation court finds such modification necessary in order to accomplish the goal of restoring the injured employee to gainful and suitable employment or is otherwise required in the interest of justice. *Spratt v. Crete Carrier Corp.*, 311 Neb. 262, 971 N.W.2d 335 (2022).

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48-628.10.

An employee who is discharged for refusing an employer's order to complete a task is discharged for misconduct only if the order refused was reasonable under the circumstances. *Badawi v. Albin*, 311 Neb. 603, 973 N.W.2d 714 (2022).

In a disputed claim for unemployment benefits, the employer bears the burden of proving an individual is disqualified from receiving benefits because he or she was discharged for misconduct. *Badawi v. Albin*, 311 Neb. 603, 973 N.W.2d 714 (2022).

Misconduct includes behavior which evidences (1) wanton and willful disregard of the employer's interests, (2) deliberate violation of rules, (3) disregard of standards of behavior which the employer can rightfully expect from the employee, or (4) negligence which manifests culpability, wrongful intent, evil design, or intentional and substantial disregard of the employer's interests or of the employee's duties and obligations. *Badawi v. Albin*, 311 Neb. 603, 973 N.W.2d 714 (2022).

49-14,103.01.

An "interest in any contract" includes receipt of a direct pecuniary fee or payment of money in exchange for performing extra work and the contract may be implied. *Moore v. Nebraska Acct. & Disclosure Comm.*, 310 Neb. 302, 965 N.W.2d 564 (2021).

52-142.

The function of the surety bond under this section is to release the property from the lien and to transfer the claimant's rights from the property to the surety bond. *Echo Group v. Tradesmen Internat.*, 312 Neb. 729, 980 N.W.2d 869 (2022).

When a person releases real estate from a construction lien by depositing a surety bond, the Nebraska Construction Lien Act does not limit a party's recovery in an action to foreclose the lien to the amount of the surety bond. *Echo Group v. Tradesmen Internat.*, 312 Neb. 729, 980 N.W.2d 869 (2022).

52-157.

This section authorizes attorney fees in circumstances involving the wrongful deprivation of benefits or bad faith, but it does not authorize such fees in every action involving foreclosure of a construction lien. *Echo Group v. Tradesmen Internat.*, 312 Neb. 729, 980 N.W.2d 869 (2022).

60-6,123.

A city ordinance prohibiting a left turn on a steady red arrow indication does not conflict with this section. *State v. Albarenga*, 30 Neb. App. 711, 972 N.W.2d 85 (2022).

A steady red arrow indication constitutes a traffic control device prohibiting a turn under subdivision (3)(c) of this section. *State v. Albarenga*, 30 Neb. App. 711, 972 N.W.2d 85 (2022).

To the extent this section conflicts with the Manual on Uniform Traffic Control Devices, 411 Neb. Admin. Code, ch.1, section 001 (2019), as it relates to red arrow indications, the manual is the controlling law. *State v. Albarenga*, 30 Neb. App. 711, 972 N.W.2d 85 (2022).

60-6,196.

The Department of Health and Human Services is not authorized by section 60-6,201 to define the phrase "any drug" as it appears in this section or in municipal ordinances authorized by section 60-6,197.07. *State v. Taylor*, 310 Neb. 376, 966 N.W.2d 510 (2021).

The phrase "any drug" in a municipal ordinance mirroring this section refers to all drugs, of whatever kind, including the appellant's prescription medications. *State v. Taylor*, 310 Neb. 376, 966 N.W.2d 510 (2021).

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60-6,201.

This section does not authorize the Department of Health and Human Services to define the phrase "any drug" as it appears in section 60-6,196(1)(a) or in municipal ordinances authorized by section 60-6,197.07. *State v. Taylor*, 310 Neb. 376, 966 N.W.2d 510 (2021).

60-6,269.

This section does not create civil liability based on a driver's failure to secure a child. *Christensen v. Broken Bow Public Schools*, 312 Neb. 814, 981 N.W.2d 234 (2022).

60-6,273.

Under this section, all evidence of nonuse of a seatbelt is inadmissible regarding liability or proximate cause. *Christensen v. Broken Bow Public Schools*, 312 Neb. 814, 981 N.W.2d 234 (2022).

66-1863.

The determination of the public interest with regard to a specific application to the Public Service Commission pursuant to this section is based on the conditions presented by the application and relates directly to the time and conditions presented, and it does not amount to an adjudication for the future. Therefore, the conclusive presumption under subsection (3) of this section is conclusive as to the determination of the public interest based on the time and conditions presented by the specific application, and it does not constitute a permanent determination or a conclusive presumption as to an application that may be presented to the Public Service Commission under different conditions in the future. In re App. No. P-12.32 of Black Hills Neb. Gas, 311 Neb. 813, 976 N.W.2d 152 (2022).

69-2404.

The applicant was prohibited from purchasing or possessing a handgun where his conviction for third degree assault met the criteria for domestic violence under federal law due to the circumstances of the offense. *Scalise v. Davis*, 312 Neb. 518, 980 N.W.2d 27 (2022).

69-2408.

The false information on an application form, which can subject an applicant to this section, is not limited to the required information under section 69-2404 of the applicant's full name, address, date of birth, and country of citizenship and, if the applicant is not a U.S. citizen, as to the applicant's place of birth and his or her alien or admission number. *State v. Hofmann*, 310 Neb. 609, 967 N.W.2d 435 (2021).

71-930.

Because this section does not provide a direct right of appeal from an order issued in connection with section 71-935, a subject's right to appeal is grounded in sections 25-1901 to 25-1908. In re Interest of R.T., 30 Neb. App. 405, 969 N.W.2d 911 (2021).

76-251.

Where there is evidence the parties intended the special warranty deed as security for a loan and the finder of fact determined such was true, the deed could be construed as a mortgage, and the purported forgiveness of the loan could be seen to operate as a relinquishment of the ownership interest in the home. The question then of whether the loan was forgiven is a material issue of fact as it affects the determination of title and outcome of the partition claim and, thus, summary judgment on partition is inappropriate. *Humphrey v. Smith*, 311 Neb. 632, 974 N.W.2d 293 (2022).

76-1410.

The appellant was not a tenant as defined by this section of the Uniform Residential Landlord and Tenant Act, because the lease agreement was between the management agent and the appellant's wife, but not the appellant himself, and no lease agreement existed between the management agent and the appellant; furthermore, the appellant was not otherwise listed as an occupant on the lease. Where a forcible entry and detainer action is not brought under the Uniform Residential Landlord and Tenant Act, the action is controlled by sections 25-21,219 to 25-21,235. *Lund Co. v. Clark*, 30 Neb. App. 351, 967 N.W.2d 759 (2021).

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76-2403.

This section and section 76-2417(3)(a) do not limit a seller's agent's duty to disclose facts only when he or she has actual knowledge of the existence of a material defect or only when he or she has knowledge that a home needs extensive repair. Rather, these sections contemplate whether seller's agent knew of any facts which significantly affected the desirability or value of the property and which were not reasonably ascertainable or known by the buyers, pertaining to the physical condition of the property or any material defects in the property. *Hinson v. Forehead*, 30 Neb. App. 55, 965 N.W.2d 793 (2021).

76-2417.

Section 76-2403 and subdivision (3)(a) of this section do not limit a seller's agent's duty to disclose facts only when he or she has actual knowledge of the existence of a material defect or only when he or she has knowledge that a home needs extensive repair. Rather, the statutes contemplate whether the seller's agent knew of any facts which significantly affected the desirability or value of the property and which were not reasonably ascertainable or known by the buyers, pertaining to the physical condition of the property or any material defects in the property. *Hinson v. Forehead*, 30 Neb. App. 55, 965 N.W.2d 793 (2021).

77-1501.

County boards of equalization can exercise only such powers as are expressly granted to them by statute, and statutes conferring power and authority upon a county board of equalization are strictly construed. *Hilt v. Douglas Cty. Bd. of Equal.*, 30 Neb. App. 425, 970 N.W.2d 113 (2021).

77-1502.

When a protest of property valuation is not timely filed on or before June 30 as required under subsection (1) of this section, the county board of equalization lacks statutory authority to review and decide the merits of the protest, and it does not have statutory authority to do anything other than dismiss the protest. *Mid America Agri Prods. v. Perkins Cty. Bd. Of Equal.*, 312 Neb. 341, 979 N.W.2d 95 (2022).

77-1801.

Efforts to collect taxes, either through the sale of a lien on the property or sale of the property itself, cannot be categorized as a taking under U.S. Const. amend. V or Neb. Const. art. I, sec. 21. *Continental Resources v. Fair*, 311 Neb. 184, 971 N.W.2d 313 (2022).

The issuance of a tax deed to a tax certificate sale purchaser does not impose a "fine" on the former property owner; therefore, the Excessive Fines Clause of U.S. Const. amend. VIII does not apply. *Continental Resources v. Fair*, 311 Neb. 184, 971 N.W.2d 313 (2022).

77-1827.

The district court did not err when it concluded that the plaintiff—who alleged she was entitled to the extended redemption under this section on the basis that her depression and anxiety qualified as a mental disorder—was not entitled to the extended redemption period, because the plaintiff had acknowledged she knew she had to pay her bills and there were consequences if she did not; the plaintiff had admitted that sometimes she failed to pay her bills because she lacked the money; the plaintiff had previously taken prompt action to respond to a notice from the city that required her to address certain conditions of her house; and an expert witness stated in his affidavit that, based on his review of the plaintiff's medical records, he saw no evidence that the plaintiff was unable to protect her rights. *Nieveen v. TAX 106*, 311 Neb. 574, 974 N.W.2d 15 (2022).

77-1831.

The notice period of 3 months before a tax certificate purchaser could apply for a tax deed was adequate and did not violate the property owner's procedural due process rights under U.S. Const. amend. XIV or Neb. Const. art. I, sec. 3. *Continental Resources v. Fair*, 311 Neb. 184, 971 N.W.2d 313 (2022).

77-1844.

The plaintiff did more than question the title when the plaintiff's counterclaim and third-party complaint sought both damages and an order directing the defendant or the county to pay the plaintiff the value of the equity the plaintiff had in the property, less the tax debt. *Continental Resources v. Fair*, 311 Neb. 184, 971 N.W.2d 313 (2022).

ANNOTATIONS

The plaintiff had standing to challenge the tax deed statute on certain state and federal constitutional grounds, despite not paying nor tendering payment of the taxes, because the plaintiff's requests for relief extended beyond merely questioning the title. *Continental Resources v. Fair*, 311 Neb. 184, 971 N.W.2d 313 (2022).

77-2002.

In determining whether to impose inheritance tax under subdivision (1)(b) of this section on a transferred interest in property, a court must consider all the surrounding circumstances of the transfer rather than simply the form of the transferring legal documents, in order to determine if a decedent intended, as a matter of fact rather than a technical vesting of title or estates, to retain a substantial economic benefit or actual use of the property until death. *In re Estate of Lofgreen*, 312 Neb. 937, 981 N.W.2d 585 (2022).

77-2011.

Where a will directs that inheritance taxes be paid out of the residuary estate, but there is no residuary estate or the residuary estate is insufficient to pay the inheritance taxes, the direction in the will fails, and the default statutory rule placing the burden of inheritance taxes on the individual beneficiaries receiving the property applies. *In re Estate of Larson*, 311 Neb. 352, 972 N.W.2d 891 (2022).

77-2701.35.

The credit a motor vehicle lessor received from a dealer for a used vehicle was not a "trade-in credit," because the dealer resold the used vehicle before it sold the new vehicle to the lessor; thus, the dealer did not take the used vehicle as all or part of the consideration for the purchase of a new vehicle. *Gelco Fleet Trust v. Nebraska Dept. of Rev.*, 312 Neb. 49, 978 N.W.2d 12 (2022).

77-2703.

A motor vehicle lessor's transactions with a dealer were two independent transactions that did not meet statutory criteria for a trade-in credit on sales tax for the purchase of a new vehicle. *Gelco Fleet Trust v. Nebraska Dept. of Rev.*, 312 Neb. 49, 978 N.W.2d 12 (2022).

77-5019.

A service of summons within 30 days of the filing of the petition for review of the Tax Equalization and Review Commission's decision is necessary to confer subject matter jurisdiction upon the Nebraska Court of Appeals. *Hilt v. Douglas Cty. Bd. of Equal.*, 30 Neb. App. 425, 970 N.W.2d 113 (2021).

81-8,210.

The State Tort Claims Act's limited waiver of sovereign immunity applies only to tort claims for which a private person, under like circumstances, would be liable in tort to the plaintiff. *Doe v. State*, 312 Neb. 665, 980 N.W.2d 842 (2022).

81-8,215.

The State Tort Claims Act's limited waiver of sovereign immunity applies only to tort claims for which a private person, under like circumstances, would be liable in tort to the plaintiff. *Doe v. State*, 312 Neb. 665, 980 N.W.2d 842 (2022).

81-885.01.

A person who solicits the sale of another's property in exchange for an option to purchase the property from the owners to resell to the buyers for a higher price is acting as a broker under this section. *Choice Homes v. Donner*, 311 Neb. 835, 976 N.W.2d 187 (2022).

81-885.02.

A person cannot solicit the sale of another's property in exchange for an option to purchase the property from the owners to resell to the buyers for a higher price without being licensed as a broker or salesperson under the Nebraska Real Estate License Act or meeting one of the exceptions listed in section 81-885.04. *Choice Homes v. Donner*, 311 Neb. 835, 976 N.W.2d 187 (2022).

ANNOTATIONS

81-885.03.

A person who solicits the sale of another's property in exchange for an option to purchase the property from the owners to resell to the buyers for a higher price is acting as a broker under this section. *Choice Homes v. Donner*, 311 Neb. 835, 976 N.W.2d 187 (2022).

81-885.04.

This section allows a person to perform services as a broker for property that he or she owns without being licensed under the Nebraska Real Estate License Act, but the services must be performed during the period that he or she owns the property. *Choice Homes v. Donner*, 311 Neb. 835, 976 N.W.2d 187 (2022).

81-1403.

The statutory authority to suspend or revoke law enforcement officers' certificates or diplomas upon a finding of serious misconduct was one factor in finding that complaints about officer misconduct filed with the Nebraska Commission on Law Enforcement and Criminal Justice are absolutely privileged. *Elbert v. Young*, 312 Neb. 58, 977 N.W.2d 892 (2022).

81-1414.14.

The statutory duty to adopt policies regarding complaints of officer misconduct and to investigate misconduct that could constitute grounds for revocation or suspension was one factor in finding that complaints about officer misconduct filed with internal affairs are absolutely privileged. *Elbert v. Young*, 312 Neb. 58, 977 N.W.2d 892 (2022).

83-1,107.

Good time earned pursuant to subdivision (2)(b) of this section is applicable only to reduce an inmate's maximum sentence and, as such, has no applicability to an inmate's parole eligibility date. *Heist v. Nebraska Dept. of Corr. Servs.*, 312 Neb. 480, 979 N.W.2d 772 (2022).

83-1,110.

In imposing a sentence subject to a habitual criminal enhancement under this section, a court is not required to pronounce that the sentence is the "mandatory minimum" for the Department of Correctional Services to treat it as such in calculating the inmate's mandatory discharge date. *Gray v. Frakes*, 311 Neb. 409, 973 N.W.2d 166 (2022).

84-901.

A Department of Correctional Services policy that merely summarizes the seven statutes relevant to the release of all inmates and explains the effect of these statutes does not constitute a rule or regulation under this section. *Heist v. Nebraska Dept. of Corr. Servs.*, 312 Neb. 480, 979 N.W.2d 772 (2022).

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

CONSTITUTION OF THE STATE OF NEBRASKA

**ARTICLE I
BILL OF RIGHTS**

Section
22. Elections to be free; identification required

Sec. 22 Elections to be free; identification required.

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

(2) Before casting a ballot in any election, a qualified voter shall present valid photographic identification in a manner specified by the Legislature to ensure the preservation of an individual's rights under this Constitution and the Constitution of the United States.

Source: Neb. Const. art. I, sec. 22 (1875); Amended 2022, Initiative Measure No. 432.

**ARTICLE XV
MISCELLANEOUS PROVISIONS**

Section
26. Political subdivision; revenues; commercial passenger air service

Sec. 26 Political subdivision; revenues; commercial passenger air service.

Notwithstanding restrictions imposed by any other provision in the Constitution, any city, county, or other political subdivision owning or operating an airport may expend or otherwise employ its revenues, from whatever source, for the public purpose of developing, or encouraging the development of, new or expanded regularly scheduled commercial passenger air service at such airport.

Source: Neb. Const. art. XV, sec. 26 (2022); Adopted 2022, Laws 2022, LR283CA, sec. 1.

CHAPTER 2

AGRICULTURE

Article.

12. Horseracing. 2-1205.

ARTICLE 12

HORSERACING

Section

2-1205. License; terms and conditions; revocation; relocation of racetrack; conditions.

2-1205 License; terms and conditions; revocation; relocation of racetrack; conditions.

(1) If the commission is satisfied that its rules and regulations and all provisions of sections 2-1201 to 2-1218 have been and will be complied with, it may issue a license for a period of not more than five years. The license shall set forth the name of the licensee, the place where the races or race meetings are to be held, and the time and number of days during which racing may be conducted by such licensee. Any such license issued shall not be transferable or assignable. The commission shall have the power to revoke any license issued at any time for good cause upon reasonable notice and hearing. No license shall be granted to any corporation or association except upon the express condition that it shall not, by any lease, contract, understanding, or arrangement of whatever kind or nature, grant, assign, or turn over to any person, corporation, or association the operation or management of any racing or race meeting licensed under such sections or of the parimutuel system of wagering described in section 2-1207 or in any manner permit any person, corporation, or association other than the licensee to have any share, percentage, or proportion of the money received for admissions to the racing or race meeting or from the operation of the parimutuel system; and any violation of such conditions shall authorize and require the commission immediately to revoke such license. No licensee shall be considered in violation of this section with respect to an agreement with an authorized gaming operator regarding employees and the acceptance of any parimutuel wager or sports wager pursuant to section 9-1110.

(2)(a) Any racetrack for which a licensee is issued a license to conduct a race or race meeting under sections 2-1201 to 2-1218 which is in existence and operational as of April 20, 2022, shall:

(i) Hold a minimum of five live racing meet days and fifty live horseraces annually beginning January 1, 2026, through December 31, 2030; and

(ii) Beginning January 1, 2031, hold a minimum of fifteen live racing meet days and one hundred twenty live horseraces annually.

(b) Any racetrack for which a licensee is issued a license to conduct a race or race meeting under sections 2-1201 to 2-1218 which is not in existence and operational until after April 20, 2022, shall:

(i) Hold a minimum of one live racing meet day annually for the first three years of operation;

(ii) Hold a minimum of five live racing meet days and fifty live horseraces annually for the fourth year of operation through the seventh year of operation; and

(iii) Beginning with the eighth year of operation, hold a minimum of fifteen live racing meet days and one hundred twenty live horseraces annually.

(c) A racetrack that fails to meet the minimum requirements under this subsection is subject to discipline by the commission, including revocation of the license issued under sections 2-1201 to 2-1218.

(3) A racetrack for which a licensee is issued a license to conduct a race or race meeting under sections 2-1201 to 2-1218 in existence on November 1, 2020, which is located in the counties of Adams, Dakota, Douglas, Hall, Lancaster, and Platte, may move such racetrack location to another county in Nebraska that does not have a racetrack one time only, subject to approval by the commission as provided in subdivision (27) of section 9-1106, subsequent to the initial issuance of the market analysis and socioeconomic-impact studies conducted pursuant to section 9-1106.

Source: Laws 1935, c. 173, § 5, p. 631; C.S.Supp.,1941, § 2-1505; R.S. 1943, § 2-1205; Laws 1975, LB 599, § 1; Laws 1986, LB 1041, § 3; Laws 2022, LB876, § 5; Laws 2023, LB775, § 1.
Effective date September 2, 2023.

CHAPTER 3 AERONAUTICS

Article.

1. General Provisions. 3-107.

Cross References

Department of Transportation Aeronautics Capital Investment Fund, see section 81-703.

ARTICLE 1 GENERAL PROVISIONS

Cross References

Constitutional provisions:

Development of commercial passenger air service by city, county, or other political subdivision, see Article XV, section 26, Constitution of Nebraska.

Section

- 3-107. Division; general supervision; Highway Cash Fund; use for administration of the division; projects; state funds; expenditure; recovery.

3-107 Division; general supervision; Highway Cash Fund; use for administration of the division; projects; state funds; expenditure; recovery.

(1) The division shall have general supervision over aeronautics within this state. It is empowered and directed to encourage, foster, and assist in the development of aeronautics in this state and encourage the establishment of airports and other air navigation facilities.

(2) The Department of Transportation may budget for and pay any of the costs related to the administration of the division, including, but not limited to, employee salaries and benefits, out of the Highway Cash Fund, as the Director-State Engineer determines, in his or her sole discretion, to be in the best interest of transportation in Nebraska. Such costs do not include costs related to the construction, reconstruction, repair, operation, or maintenance of airport infrastructure, including runways, concrete surfacing, hangers or capital improvements, buildings, and structures.

(3) No state funds for the acquisition, engineering, construction, improvement, or maintenance of airports shall be expended upon any project or for any work upon any such project which is not done under the supervision of the division. When any airport which has received state grant funds pursuant to the State Aeronautics Act ceases to be an airport or a privately owned public use airport, the division shall, consistent with all other provisions of state and federal law, seek to recover so much of the state funds provided to the airport as it may and shall deposit any such funds so recovered into the Aeronautics Cash Fund.

Source: Laws 1945, c. 5, § 6(1), p. 83; Laws 1995, LB 609, § 3; Laws 2017, LB339, § 7; Laws 2023, LB138, § 1.

Operative date September 2, 2023.

CHAPTER 8

BANKS AND BANKING

Article.

1. General Provisions. 8-101.03 to 8-1,140.
3. Building and Loan Associations. 8-318, 8-355.
6. Assessments and Fees. 8-602.
11. Securities Act of Nebraska. 8-1101, 8-1101.01.
17. Commodity Code. 8-1704, 8-1707.
27. Nebraska Money Transmitters Act. 8-2724.
29. Financial Exploitation of a Vulnerable Adult or Senior Adult.
 - (a) Financial Institutions. 8-2903.
30. Nebraska Financial Innovation Act. 8-3002 to 8-3030.

ARTICLE 1

GENERAL PROVISIONS

Section

- 8-101.03. Terms, defined.
- 8-102. Department; supervision and control of specified financial institutions; declaration of public purpose; director; order, decision, or determination; authority to prescribe conditions.
- 8-115. Banks; digital asset depositories; charter required.
- 8-135. Deposits; withdrawal methods authorized; lease of safe deposit box; section; how construed.
- 8-141. Loans; limits; exceptions.
- 8-143.01. Extension of credit; limits; written report; credit report; violation; penalty; powers of director.
- 8-157.01. Establishing financial institution; automatic teller machines; use; availability; user financial institution; switch; use and access; duties.
- 8-183.04. State or federal savings association; mutual savings association; retention of mutual form authorized.
- 8-1,140. Federally chartered bank; bank organized under laws of Nebraska; rights, privileges, benefits, and immunities; exception.

8-101.03 Terms, defined.

For purposes of the Nebraska Banking Act, unless the context otherwise requires:

(1) Access device means a code, a transaction card, or any other means of access to a customer's account, or any combination thereof, that may be used by a customer for the purpose of initiating an electronic funds transfer at an automatic teller machine or a point-of-sale terminal;

(2) Acquiring financial institution means any financial institution establishing a point-of-sale terminal;

(3) Automatic teller machine means a machine established and located in the State of Nebraska, whether attended or unattended, which utilizes electronic, sound, or mechanical signals or impulses, or any combination thereof, and from which electronic funds transfers may be initiated and at which banking transactions as defined in section 8-157.01 may be conducted. An unattended automatic teller machine shall not be deemed to be a branch operated by a financial institution;

(4) Automatic teller machine surcharge means a fee that an operator of an automatic teller machine imposes upon a consumer for an electronic funds transfer, if such operator is not the financial institution that holds an account of such consumer from which the electronic funds transfer is to be made;

(5) Bank or banking corporation means any incorporated banking institution which was incorporated under the laws of this state as they existed prior to May 9, 1933, and any corporation duly organized under the laws of this state for the purpose of conducting a bank within this state under the act. Bank means any such banking institution which is, in addition to the exercise of other powers, following the practice of repaying deposits upon check, draft, or order and of making loans. Bank or banking corporation includes a digital asset depository institution as defined in section 8-3003. Notwithstanding the provisions of this subdivision, a digital asset depository institution is subject to the provisions of subdivision (2)(b) of section 8-3005;

(6)(a) Bank subsidiary means a corporation or limited liability company that:

(i) Has a bank as a shareholder, member, or investor; and

(ii) Is organized for purposes of engaging in activities which are part of the business of banking or incidental to such business except for the receipt of deposits.

(b) A bank subsidiary may include a corporation organized under the Nebraska Financial Innovation Act.

(c) A bank subsidiary is not to be considered a branch of its bank shareholder;

(7) Capital or capital stock means capital stock;

(8) Data processing center means a facility, wherever located, at which electronic impulses or other indicia of a transaction originating at an automatic teller machine are received and either authorized or routed to a switch or other data processing center in order to enable the automatic teller machine to perform any function for which it is designed;

(9) Department means the Department of Banking and Finance;

(10) Digital asset depository means a financial institution that securely holds liquid assets when such assets are in the form of controllable electronic records, either as a corporation organized, chartered, and operated pursuant to the Nebraska Financial Innovation Act as a digital asset depository institution, or a financial institution operating a digital asset depository business as a digital asset depository department under a charter granted by the director;

(11) Director means the Director of Banking and Finance;

(12) Financial institution means a bank, savings bank, building and loan association, savings and loan association, or credit union, whether chartered by the United States, the department, or a foreign state agency; any other similar organization which is covered by federal deposit insurance; a trust company; or a digital asset depository that is not a digital asset depository institution;

(13) Financial institution employees includes parent holding company and affiliate employees;

(14) Foreign state agency means any duly constituted regulatory or supervisory agency which has authority over financial institutions and which is created under the laws of any other state, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the

Virgin Islands or which is operating under the code of law for the District of Columbia;

(15) Impulse means an electronic, sound, or mechanical impulse, or any combination thereof;

(16) Insolvent means a condition in which (a) the actual cash market value of the assets of a bank is insufficient to pay its liabilities to its depositors, (b) a bank is unable to meet the demands of its creditors in the usual and customary manner, (c) a bank, after demand in writing by the director, fails to make good any deficiency in its reserves as required by law, or (d) the stockholders of a bank, after written demand by the director, fail to make good an impairment of its capital or surplus;

(17) Making loans includes advances or credits that are initiated by means of credit card or other transaction card. Transaction card and other transactions, including transactions made pursuant to prior agreements, may be brought about and transmitted by means of an electronic impulse. Such loan transactions including transactions made pursuant to prior agreements shall be subject to sections 8-815 to 8-829 and shall be deemed loans made at the place of business of the financial institution;

(18) Order includes orders transmitted by electronic transmission;

(19) Point-of-sale terminal means an information processing terminal which utilizes electronic, sound, or mechanical signals or impulses, or any combination thereof, which are transmitted to a financial institution or which are recorded for later transmission to effectuate electronic funds transfer transactions for the purchase or payment of goods and services and which are initiated by an access device. A point-of-sale terminal is not a branch operated by a financial institution. Any terminal owned or operated by a seller of goods and services shall be connected directly or indirectly to an acquiring financial institution; and

(20) Switch means any facility where electronic impulses or other indicia of a transaction originating at an automatic teller machine are received and are routed and transmitted to a financial institution or data processing center, wherever located. A switch may also be a data processing center.

Source: Laws 1963, c. 29, § 1, p. 134; Laws 1965, c. 27, § 1, p. 198; Laws 1967, c. 19, § 1, p. 117; Laws 1975, LB 269, § 1; Laws 1976, LB 561, § 1; Laws 1987, LB 615, § 1; Laws 1988, LB 375, § 1; Laws 1993, LB 81, § 1; Laws 1994, LB 611, § 1; Laws 1995, LB 384, § 1; Laws 1997, LB 137, § 1; Laws 1998, LB 1321, § 1; Laws 2000, LB 932, § 1; Laws 2002, LB 1089, § 1; Laws 2003, LB 131, § 1; Laws 2003, LB 217, § 1; Laws 2015, LB348, § 1; R.S. Supp., 2016, § 8-101; Laws 2017, LB140, § 2; Laws 2021, LB649, § 33; Laws 2022, LB707, § 6; Laws 2023, LB92, § 1.
Operative date June 7, 2023.

Cross References

Nebraska Financial Innovation Act, see section 8-3001.

8-102 Department; supervision and control of specified financial institutions; declaration of public purpose; director; order, decision, or determination; authority to prescribe conditions.

(1) The department shall, under the laws of this state specifically made applicable to each, have general supervision and control over banks, trust companies, credit unions, building and loan associations, savings and loan associations, and digital asset depositories, all of which are hereby declared to be quasi-public in nature and subject to regulation and control by the state.

(2) The director may prescribe conditions on banks, trust companies, credit unions, building and loan associations, savings and loan associations, and digital asset depositories, and their holding companies, if any, as part of any written order, decision, or determination required to be made pursuant to the Credit Union Act, the Nebraska Banking Act, the Nebraska Financial Innovation Act, and Chapter 8, article 3.

Source: Laws 1963, c. 29, § 2, p. 134; Laws 2002, LB 1094, § 1; Laws 2003, LB 131, § 2; Laws 2017, LB140, § 3; Laws 2021, LB649, § 34; Laws 2023, LB92, § 2.
Operative date June 7, 2023.

Cross References

Credit Union Act, see section 21-1701.

Nebraska Financial Innovation Act, see section 8-3001.

8-115 Banks; digital asset depositories; charter required.

No corporation shall conduct a bank or digital asset depository in this state without having first obtained a charter in the manner provided in the Nebraska Banking Act or the Nebraska Financial Innovation Act, respectively.

Source: Laws 1909, c. 10, § 11, p. 71; R.S.1913, § 290; Laws 1919, c. 190, tit. V, art. XVI, § 9, p. 689; C.S.1922, § 7990; C.S.1929, § 8-120; Laws 1933, c. 18, § 15, p. 143; C.S.Supp.,1941, § 8-120; R.S. 1943, § 8-117; Laws 1963, c. 29, § 15, p. 140; Laws 1987, LB 2, § 4; Laws 1998, LB 1321, § 4; Laws 2021, LB649, § 36; Laws 2023, LB92, § 3.
Operative date June 7, 2023.

Cross References

Nebraska Financial Innovation Act, see section 8-3001.

8-135 Deposits; withdrawal methods authorized; lease of safe deposit box; section; how construed.

(1) All persons, regardless of age, may become depositors in any bank and shall be subject to the same duties and liabilities respecting their deposits. Whenever a deposit is accepted by any bank in the name of any person, regardless of age, the deposit may be withdrawn by the depositor by any of the following methods:

(a) Check or other instrument in writing. The check or other instrument in writing constitutes a receipt or acquittance if the check or other instrument in writing is signed by the depositor and constitutes a valid release and discharge to the bank for all payments so made; or

(b) Electronic means through:

(i) Preauthorized direct withdrawal;

(ii) An automatic teller machine;

(iii) A debit card;

- (iv) A transfer by telephone;
- (v) A network, including the Internet; or
- (vi) Any electronic terminal, computer, magnetic tape, or other electronic means.

(2) All persons, individually or with others and regardless of age, may enter into an agreement with a bank for the lease of a safe deposit box and shall be bound by the terms of the agreement.

(3) This section shall not be construed to affect the rights, liabilities, or responsibilities of participants in an electronic fund transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as such act existed on January 1, 2023, and shall not affect the legal relationships between a minor and any person other than the bank.

Source: Laws 1963, c. 27, § 1, p. 132; Laws 1963, c. 29, § 35, p. 148; Laws 2005, LB 533, § 6; Laws 2013, LB213, § 3; Laws 2016, LB760, § 1; Laws 2017, LB140, § 33; Laws 2018, LB812, § 1; Laws 2019, LB258, § 1; Laws 2020, LB909, § 2; Laws 2021, LB363, § 1; Laws 2022, LB707, § 9; Laws 2023, LB92, § 4.
Operative date June 7, 2023.

8-141 Loans; limits; exceptions.

(1) No bank shall directly or indirectly loan to any single corporation, limited liability company, firm, or individual, including in such loans all loans made to the several members or shareholders of such corporation, limited liability company, or firm, for the use and benefit of such corporation, limited liability company, firm, or individual, more than twenty-five percent of the paid-up capital, surplus, and capital notes and debentures or fifteen percent of the unimpaired capital and unimpaired surplus of such bank, whichever is greater. Such limitations shall be subject to the following exceptions:

(a) Obligations of any person, partnership, limited liability company, association, or corporation in the form of notes or drafts secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock, when the market value of the livestock securing the obligation is not at any time less than one hundred fifteen percent of the face amount of the notes covered by such documents, shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures or ten percent of such unimpaired capital and unimpaired surplus, whichever is greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired surplus;

(b) Obligations of any person, partnership, limited liability company, association, or corporation secured by not less than a like amount of bonds or notes of the United States issued since April 24, 1917, or certificates of indebtedness of the United States, treasury bills of the United States, or obligations fully guaranteed both as to principal and interest by the United States shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures or ten percent of such unimpaired capital and unimpaired surplus, whichever is greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired surplus;

(c) Obligations of any person, partnership, limited liability company, association, or corporation which are secured by negotiable warehouse receipts in an amount not less than one hundred fifteen percent of the face amount of the note or notes secured by such documents shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures or ten percent of such unimpaired capital and unimpaired surplus, whichever is greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired surplus; or

(d) Obligations of any person, partnership, limited liability company, association, or corporation which are secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, in an amount at least equal to the face amount of the note or notes secured by such collateral, shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures or ten percent of such unimpaired capital and unimpaired surplus, whichever is greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired surplus.

(2)(a) For purposes of this section, the discounting of bills of exchange, drawn in good faith against actually existing values, and the discounting of commercial paper actually owned by the persons negotiating the bills of exchange or commercial paper shall not be considered as the lending of money.

(b) Loans or obligations shall not be subject to any limitation under this section, based upon such capital and surplus or such unimpaired capital and unimpaired surplus, to the extent that such capital and surplus or such unimpaired capital and unimpaired surplus are secured or covered by guaranties, or by commitments or agreements to take over or to purchase such capital and surplus or such unimpaired capital and unimpaired surplus, made by any federal reserve bank or by the United States Government or any authorized agency thereof, including any corporation wholly owned directly or indirectly by the United States, or general obligations of any state of the United States or any political subdivision of the state. The phrase general obligation of any state or any political subdivision of the state means an obligation supported by the full faith and credit of an obligor possessing general powers of taxation, including property taxation, but does not include municipal revenue bonds and sanitary and improvement district warrants which are subject to the limitations set forth in this section.

(c) Any bank may subscribe to, invest in, purchase, and own single-family mortgages secured by the Federal Housing Administration or the United States Department of Veterans Affairs and mortgage-backed certificates of the Government National Mortgage Association which are guaranteed as to payment of principal and interest by the Government National Mortgage Association. Such mortgages and certificates shall not be subject under this section to any limitation based upon such capital and surplus or such unimpaired capital and unimpaired surplus.

(d) Obligations representing loans to any national banking association or to any banking institution organized under the laws of any state, when such loans are approved by the director by rule and regulation or otherwise, shall not be subject under this section to any limitation based upon such capital and surplus or such unimpaired capital and unimpaired surplus.

(e) Loans or extensions of credit secured by a segregated deposit account in the lending bank shall not be subject under this section to any limitation based on such capital and surplus or such unimpaired capital and unimpaired surplus. The director may adopt and promulgate rules and regulations governing the terms and conditions of such security interest and segregated deposit account.

(f) For the purpose of determining lending limits, partnerships shall not be treated as separate entities. Each individual shall be charged with his or her personal debt plus the debt of every partnership in which he or she is a partner, except that for purposes of this section (a) an individual shall only be charged with the debt of any limited partnership in which he or she is a partner to the extent that the terms of the limited partnership agreement provide that such individual is to be held liable for the debts or actions of such limited partnership and (b) no individual shall be charged with the debt of any general partnership in which he or she is a partner beyond the extent to which (i) his or her liability for such partnership debt is limited by the terms of a contract or other written agreement between the bank and such individual and (ii) any personal debt of such individual is incurred for the use and benefit of such general partnership.

(3) A loan made within lending limits at the initial time the loan was made may be renewed, extended, or serviced without regard to changes in the lending limit of a bank following the initial extension of the loan if (a) the renewal, extension, or servicing of the loan does not result in the extension of funds beyond the initial amount of the loan or (b) the accrued interest on the loan is not added to the original amount of the loan in the process of renewal, extension, or servicing.

(4) Any bank may purchase or take an interest in life insurance contracts for any purpose incidental to the business of banking. A bank's purchase of any life insurance contract, as measured by its cash surrender value, from any one life insurance company shall not at any time exceed twenty-five percent of the paid-up capital, surplus, and capital notes and debentures of such bank or fifteen percent of the unimpaired capital and unimpaired surplus of such bank, whichever is greater. A bank's purchase of life insurance contracts, as measured by their cash surrender values, in the aggregate from all life insurance companies shall not at any time exceed thirty-five percent of the paid-up capital, surplus, undivided profits, and capital notes and debentures of such bank. The limitations under this subsection on a bank's purchase of life insurance contracts, in the aggregate from all life insurance companies, shall not apply to any contract purchased prior to April 5, 1994.

(5) On and after January 21, 2013, the director has the authority to determine the manner and extent to which credit exposure resulting from derivative transactions, repurchase agreements, reverse repurchase agreements, securities lending transactions, and securities borrowing transactions shall be taken into account for purposes of determining compliance with this section. In making such determinations, the director may, but is not required to, act by rule and regulation or order.

(6) For purposes of this section:

(a) Derivative transaction means any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any

event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets;

(b) Loan includes:

(i) All direct and indirect advances of funds to a person made on the basis of any obligation of that person to repay the funds or repayable from specific property pledged by or on behalf of that person;

(ii) To the extent specified by rule and regulation or order of the director, any liability of a state bank to advance funds to or on behalf of a person pursuant to a contractual commitment; and

(iii) Any credit exposure to a person arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between the bank and the person; and

(c) Unimpaired capital and unimpaired surplus means:

(i) For qualifying banks that have elected to use the community bank leverage ratio framework, as set forth under the Capital Adequacy Standards of the appropriate federal banking agency:

(A) The bank's tier 1 capital as reported according to the capital guidelines of the appropriate federal banking agency; and

(B) The bank's allowance for loan and lease losses or allowance for credit losses, as applicable, as reported in the most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3), as such section existed on January 1, 2023; and

(ii) For all other banks:

(A) The bank's tier 1 and tier 2 capital included in the bank's risk-based capital under the capital guidelines of the appropriate federal banking agency, based on the bank's most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3), as such section existed on January 1, 2023; and

(B) The balance of the bank's allowance for loan and lease losses not included in the bank's tier 2 capital for purposes of the calculation of risk-based capital by the appropriate federal banking agency, based on the bank's most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3), as such section existed on January 1, 2023.

(7) Notwithstanding the provisions of section 8-1,140, the director may, by order, deny or limit the inclusion of goodwill in the calculation of a bank's unimpaired capital and unimpaired surplus or in the calculation of a bank's paid-up capital and surplus.

Source: Laws 1909, c. 10, § 33, p. 81; R.S.1913, § 312; Laws 1919, c. 190, tit. V, art. XVI, § 33, p. 698; Laws 1921, c. 313, § 1, p. 1002; C.S.1922, § 8013; Laws 1923, c. 191, § 45, p. 461; C.S.1929, § 8-150; Laws 1933, c. 18, § 33, p. 151; C.S.Supp.,1941, § 8-150; Laws 1943, c. 9, § 1(1), p. 67; R.S.1943, § 8-150; Laws 1959, c. 15, § 14, p. 137; R.R.S.1943, § 8-150; Laws 1963, c. 29, § 41, p. 151; Laws 1965, c. 28, § 3, p. 201; Laws 1969, c. 35, § 1, p. 241; Laws 1972, LB 1151, § 1; Laws 1973, LB 164, § 13; Laws 1986, LB 983, § 2; Laws 1987, LB 753, § 1; Laws 1988, LB 788, § 1; Laws 1990, LB 956, § 2; Laws 1993, LB 81, § 3; Laws 1993, LB 121, § 87; Laws 1994, LB 979, § 2; Laws 1999, LB 396, § 7;

Laws 2006, LB 876, § 8; Laws 2012, LB963, § 1; Laws 2017, LB140, § 38; Laws 2020, LB909, § 3; Laws 2021, LB363, § 2; Laws 2022, LB707, § 10; Laws 2023, LB92, § 5.
Operative date June 7, 2023.

8-143.01 Extension of credit; limits; written report; credit report; violation; penalty; powers of director.

(1) No bank shall extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of such persons in an amount that, when aggregated with the amount of all other extensions of credit by the bank to that person and to all related interests of that person, exceeds the higher of twenty-five thousand dollars or five percent of the bank's unimpaired capital and unimpaired surplus unless (a) the extension of credit has been approved in advance by a majority vote of the entire board of directors of the bank, a record of which shall be made and kept as a part of the records of such bank, and (b) the interested party has abstained from participating directly or indirectly in such vote.

(2) No bank shall extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of such persons in an amount that, when aggregated with the amount of all other extensions of credit by the bank to that person and to all related interests of that person, exceeds five hundred thousand dollars except by complying with the requirements of subdivisions (1)(a) and (b) of this section.

(3) No bank shall extend credit to any of its executive officers, and no such executive officer shall borrow from or otherwise become indebted to his or her bank, except in the amounts and for the purposes set forth in subsection (4) of this section.

(4) A bank shall be authorized to extend credit to any of its executive officers:

(a) In any amount to finance the education of such executive officer's children;

(b)(i) In any amount to finance or refinance the purchase, construction, maintenance, or improvement of a residence of such executive officer if the extension of credit is secured by a first lien on the residence and the residence is owned or is expected to be owned after the extension of credit by the executive officer and (ii) in the case of a refinancing, only the amount of the refinancing used to repay the original extension of credit, together with the closing costs of the refinancing, and any additional amount thereof used for any of the purposes enumerated in this subdivision are included within this category of credit;

(c) In any amount if the extension of credit is (i) secured by a perfected security interest in bonds, notes, certificates of indebtedness, or treasury bills of the United States or in other such obligations fully guaranteed as to principal and interest by the United States, (ii) secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States, or (iii) secured by a perfected security interest in a segregated deposit account in the lending bank; or

(d) For any other purpose not specified in subdivisions (a), (b), and (c) of this subsection if the aggregate amount of such other extensions of credit to such

executive officer does not exceed, at any one time, the greater of two and one-half percent of the bank's unimpaired capital and unimpaired surplus or twenty-five thousand dollars, but in no event greater than one hundred thousand dollars or the amount of the bank's lending limit as prescribed in section 8-141, whichever is less.

(5)(a) Except as provided in subdivision (b) or (c) of this subsection, any executive officer shall make, on an annual basis, a written report to the board of directors of the bank of which he or she is an executive officer stating the date and amount of all loans or indebtedness on which he or she is a borrower, cosigner, or guarantor, the security therefor, and the purpose for which the proceeds have been or are to be used.

(b) Except as provided in subdivision (c) of this subsection, in lieu of the reports required by subdivision (a) of this subsection, the board of directors of a bank may obtain a credit report from a recognized credit agency, on an annual basis, for any or all of its executive officers.

(c) Subdivisions (a) and (b) of this subsection do not apply to any executive officer if such officer is excluded by a resolution of the board of directors or by the bylaws of the bank from participating in the major policymaking functions of the bank and does not actually participate in the major policymaking functions of the bank.

(6) No bank shall extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of such persons in an amount that, when aggregated with the amount of all other extensions of credit by the bank to that person and to all related interests of that person, exceeds the lending limit of the bank as prescribed in section 8-141.

(7)(a) Except as provided in subdivision (b) of this subsection, no bank shall extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of such persons unless the extension of credit (i) is made on substantially the same terms, including interest rates and collateral, as, and following credit-underwriting procedures that are not less stringent than, those prevailing at the time for comparable transactions by the bank with other persons that are not covered by this section and who are not employed by the bank and (ii) does not involve more than the normal risk of repayment or present other unfavorable features.

(b) Nothing in subdivision (a) of this subsection shall prohibit any extension of credit made by a bank pursuant to a benefit or compensation program under the provisions of 12 C.F.R. 215.4(a)(2), as such regulation existed on January 1, 2023.

(8) For purposes of this section:

(a) Executive officer means a person who participates or has authority to participate, other than in the capacity of director, in the major policymaking functions of the bank, whether or not the officer has an official title, the title designates such officer as an assistant, or such officer is serving without salary or other compensation. Executive officer includes the chairperson of the board of directors, the president, all vice presidents, the cashier, the corporate secretary, and the treasurer, unless the executive officer is excluded by a resolution of the board of directors or by the bylaws of the bank from participating, other than in the capacity of director, in the major policymaking functions of the bank, and the executive officer does not actually participate in such functions. A manager or assistant manager of a branch of a bank shall not

be considered to be an executive officer unless such individual participates or is authorized to participate in the major policymaking functions of the bank; and

(b) Unimpaired capital and unimpaired surplus means the sum of:

(i) The total equity capital of the bank reported on its most recent consolidated report of condition filed under section 8-166;

(ii) Any subordinated notes and debentures approved as an addition to the bank's capital structure by the appropriate federal banking agency; and

(iii) Any valuation reserves created by charges to the bank's income reported on its most recent consolidated report of condition filed under section 8-166.

(9) Any executive officer, director, or principal shareholder of a bank or any other person who intentionally violates this section or who aids, abets, or assists in a violation of this section is guilty of a Class IV felony.

(10) The Director of Banking and Finance may adopt and promulgate rules and regulations to carry out this section, including rules and regulations defining or further defining terms used in this section, consistent with the provisions of 12 U.S.C. 84 and implementing Regulation O as such section and regulation existed on January 1, 2023.

Source: Laws 1994, LB 611, § 2; Laws 1997, LB 137, § 4; Laws 1999, LB 396, § 8; Laws 2001, LB 53, § 1; Laws 2005, LB 533, § 7; Laws 2008, LB851, § 5; Laws 2017, LB140, § 40; Laws 2018, LB812, § 2; Laws 2019, LB258, § 2; Laws 2020, LB909, § 4; Laws 2021, LB363, § 3; Laws 2022, LB707, § 11; Laws 2023, LB92, § 6.
Operative date June 7, 2023.

8-157.01 Establishing financial institution; automatic teller machines; use; availability; user financial institution; switch; use and access; duties.

(1) Any establishing financial institution may establish and maintain any number of automatic teller machines at which all banking transactions, defined as receiving deposits of every kind and nature and crediting such to customer accounts, cashing checks and cash withdrawals, transferring funds from checking accounts to savings accounts, transferring funds from savings accounts to checking accounts, transferring funds from either checking accounts and savings accounts to accounts of other customers, transferring payments from customer accounts into accounts maintained by other customers of the financial institution or the financial institution, including preauthorized draft authority, preauthorized loans, and credit transactions, receiving payments payable at the financial institution or otherwise, account balance inquiry, and any other transaction incidental to the business of the financial institution or which will provide a benefit to the financial institution's customers or the general public, may be conducted. Any automatic teller machine owned by a nonfinancial institution third party shall be sponsored by an establishing financial institution. Neither such automatic teller machines nor the transactions conducted thereat shall be construed as the establishment of a branch or as branch banking.

(2) Any financial institution may become a user financial institution by agreeing to pay the establishing financial institution the automatic teller machine usage fee. Such agreement shall be implied by the use of such automatic teller machines.

(3)(a)(i) All automatic teller machines shall be made available on a nondiscriminating basis for use by Nebraska customers of a user financial institution and (ii) all Nebraska automatic teller machine transactions initiated by Nebraska customers of a user financial institution shall be made on a nondiscriminating basis.

(b) It shall not be deemed discrimination if (i) an automatic teller machine does not offer the same transaction services as other automatic teller machines, (ii) there are no automatic teller machine usage fees charged between affiliate financial institutions for the use of automatic teller machines, (iii) the automatic teller machine usage fees of an establishing financial institution that authorizes and directly or indirectly routes Nebraska automatic teller machine transactions to multiple switches, all of which comply with the requirements of subdivision (3)(d) of this section, differ solely based upon the fees established by the switches, (iv) automatic teller machine usage fees differ based upon whether the transaction initiated at an automatic teller machine is subject to a surcharge or provided on a surcharge-free basis, or (v) the automatic teller machines established or sponsored by an establishing financial institution are made available for use by Nebraska customers of any user financial institution which agrees to pay the automatic teller machine usage fee and which conforms to the operating rules and technical standards established by the switch to which a Nebraska automatic teller machine transaction is directly or indirectly routed.

(c) The director, upon notice and after a hearing, may terminate or suspend the use of any automatic teller machine if he or she determines that the automatic teller machine is not made available on a nondiscriminating basis or that Nebraska automatic teller machine transactions initiated at such automatic teller machine are not made on a nondiscriminating basis.

(d) A switch (i) shall provide to all financial institutions that have a main office or approved branch located in the State of Nebraska and that conform to the operating rules and technical standards established by the switch an equal opportunity to participate in the switch for the use of and access thereto; (ii) shall be capable of operating to accept and route Nebraska automatic teller machine transactions, whether receiving data from an automatic teller machine, an establishing financial institution, or a data processing center; and (iii) shall be capable of being directly or indirectly connected to every data processing center for any automatic teller machine.

(e) The director, upon notice and after a hearing, may terminate or suspend the operation of any switch with respect to all Nebraska automatic teller machine transactions if he or she determines that the switch is not being operated in the manner required under subdivision (3)(d) of this section.

(f) Subject to the requirement for a financial institution to comply with this subsection, no user financial institution or establishing financial institution shall be required to become a member of any particular switch.

(4) Any consumer initiating an electronic funds transfer at an automatic teller machine for which an automatic teller machine surcharge will be imposed shall receive notice in accordance with the provisions of 15 U.S.C. 1693b(d)(3)(A) and (B), as such section existed on January 1, 2023. Such notice shall appear on the screen of the automatic teller machine or appear on a paper notice issued from such machine after the transaction is initiated and before the consumer is irrevocably committed to completing the transaction.

(5) A point-of-sale terminal may be established at any point within this state by a financial institution, a group of two or more financial institutions, or a combination of a financial institution or financial institutions and a third party or parties. Such parties may contract with a seller of goods and services or any other third party for the operation of point-of-sale terminals.

(6) A seller of goods and services or any other third party on whose premises one or more point-of-sale terminals are established shall not be, solely by virtue of such establishment, a financial institution and shall not be subject to the laws governing, or other requirements imposed on, financial institutions, except for the requirement that it faithfully perform its obligations in connection with any transaction originated at any point-of-sale terminal on its premises.

(7) Nothing in this section shall be construed to prohibit nonbank employees from assisting in transactions originated at automatic teller machines or point-of-sale terminals, and such assistance shall not be deemed to be engaging in the business of banking.

(8)(a) Annually by September 1, any entity operating as a switch in Nebraska shall file a notice with the department setting forth its name, address, and contact information for an officer authorized to answer inquiries related to its operations in Nebraska.

(b) Any entity intending to operate in Nebraska as a switch shall file a notice with the department setting forth its name, address, and contact information for an officer authorized to answer inquiries related to its operations in Nebraska. Such notice shall be filed at least thirty days prior to the date on which the switch commences operations, and thereafter annually by September 1.

(9) Nothing in this section prohibits ordinary clearinghouse transactions between financial institutions.

(10) Nothing in this section shall prevent any financial institution which has a main chartered office or an approved branch located in the State of Nebraska from participating in a national automatic teller machine program to allow its customers to use automatic teller machines located outside of the State of Nebraska which are established by out-of-state financial institutions or foreign financial institutions or to allow customers of out-of-state financial institutions or foreign financial institutions to use its automatic teller machines. Such participation and any automatic teller machine usage fees charged or received pursuant to the national automatic teller machine program or usage fees charged for the use of its automatic teller machines by customers of out-of-state financial institutions or foreign financial institutions shall not be considered for purposes of determining (a) if an automatic teller machine has been made available or Nebraska automatic teller machine transactions have been made on a nondiscriminating basis for use by Nebraska customers of a user financial institution or (b) if a switch complies with subdivision (3)(d) of this section.

(11) An agreement to operate or share an automatic teller machine may not prohibit, limit, or restrict the right of the operator or owner of the automatic teller machine to charge a customer conducting a transaction using an account from a foreign financial institution an access fee or surcharge not otherwise prohibited under state or federal law.

(12) Switch fees shall not be subject to this section or be regulated by the department.

(13) Nothing in this section shall prevent a group of two or more credit unions, each of which has a main chartered office or an approved branch located in the State of Nebraska, from participating in a credit union service organization organized on or before January 1, 2015, for the purpose of owning automatic teller machines, provided that all participating credit unions have an ownership interest in the credit union service organization and that the credit union service organization has an ownership interest in each of the participating credit unions' automatic teller machines. Such participation and any automatic teller machine usage fees associated with Nebraska automatic teller machine transactions initiated by customers of participating credit unions at such automatic teller machines shall not be considered for purposes of determining if such automatic teller machines have been made available on a nondiscriminating basis or if Nebraska automatic teller machine transactions initiated at such automatic teller machines have been made on a nondiscriminating basis, provided that all Nebraska automatic teller machine transactions initiated by customers of participating credit unions result in the same automatic teller machine usage fees for essentially the same service routed over the same switch.

(14) Nebraska automatic teller machine usage fees and any agreements relating to Nebraska automatic teller machine usage fees shall comply with subsection (3) of this section.

(15) For purposes of this section:

(a) Access means the ability to utilize an automatic teller machine or a point-of-sale terminal to conduct permitted banking transactions or purchase goods and services electronically;

(b) Account means a checking account, a savings account, a share account, or any other customer asset account held by a financial institution. Such an account may also include a line of credit which a financial institution has agreed to extend to its customer;

(c) Affiliate financial institution means any financial institution which is a subsidiary of the same bank holding company;

(d) Automatic teller machine usage fee means any per transaction fee established by a switch or otherwise established on behalf of an establishing financial institution and collected from the user financial institution and paid to the establishing financial institution for the use of the automatic teller machine. An automatic teller machine usage fee shall not include switch fees;

(e) Electronic funds transfer means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through a point-of-sale terminal, an automatic teller machine, or a personal terminal for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account;

(f) Essentially the same service means the same Nebraska automatic teller machine transaction offered by an establishing financial institution irrespective of the user financial institution, the Nebraska customer of which initiates the Nebraska automatic teller machine transaction. A Nebraska automatic teller machine transaction that is subject to a surcharge is not essentially the same service as the same banking transaction for which a surcharge is not imposed;

(g) Establishing financial institution means any financial institution which has a main chartered office or approved branch located in the State of

Nebraska that establishes or sponsors an automatic teller machine or any out-of-state financial institution that establishes or sponsors an automatic teller machine;

(h) Financial institution means a bank, savings bank, building and loan association, savings and loan association, or credit union, whether chartered by the department, the United States, or a foreign state agency; any other similar organization which is covered by federal deposit insurance; or a subsidiary of any such entity;

(i) Foreign financial institution means a financial institution located outside the United States;

(j) Nebraska automatic teller machine transaction means a banking transaction as defined in subsection (1) of this section which is (i) initiated at an automatic teller machine established in whole or in part or sponsored by an establishing financial institution, (ii) for an account of a Nebraska customer of a user financial institution, and (iii) processed through a switch regardless of whether it is routed directly or indirectly from an automatic teller machine;

(k) Personal terminal means a personal computer and telephone, wherever located, operated by a customer of a financial institution for the purpose of initiating a transaction affecting an account of the customer;

(l) Sponsoring an automatic teller machine means the acceptance of responsibility by an establishing financial institution for compliance with all provisions of law governing automatic teller machines and Nebraska automatic teller machine transactions in connection with an automatic teller machine owned by a nonfinancial institution third party;

(m) Switch fee means a fee established by a switch and assessed to a user financial institution or to an establishing financial institution other than an automatic teller machine usage fee; and

(n) User financial institution means any financial institution which has a main chartered office or approved branch located in the State of Nebraska which avails itself of and provides its customers with automatic teller machine services.

Source: Laws 1987, LB 615, § 3; Laws 1992, LB 470, § 2; Laws 1993, LB 81, § 8; Laws 1993, LB 423, § 2; Laws 1999, LB 396, § 9; Laws 2000, LB 932, § 3; Laws 2002, LB 1089, § 3; Laws 2003, LB 131, § 4; Laws 2004, LB 999, § 2; Laws 2009, LB75, § 1; Laws 2009, LB327, § 4; Laws 2013, LB100, § 1; Laws 2015, LB348, § 2; Laws 2016, LB760, § 2; Laws 2017, LB140, § 56; Laws 2018, LB812, § 3; Laws 2019, LB258, § 3; Laws 2019, LB603, § 1; Laws 2020, LB909, § 5; Laws 2021, LB363, § 4; Laws 2022, LB707, § 15; Laws 2023, LB92, § 7.

Operative date June 7, 2023.

8-183.04 State or federal savings association; mutual savings association; retention of mutual form authorized.

(1) Notwithstanding any other provision of the Nebraska Banking Act or any other Nebraska law, a state or federal savings association which was formed and in operation as a mutual savings association as of July 15, 1998, may elect to retain its mutual form of corporate organization upon conversion to a state bank.

(2) All references to shareholders or stockholders for state banks shall be deemed to be references to members for such a converted savings association.

(3) The amount and type of capital required for such a converted savings association shall be as required for federal mutual savings associations in 12 C.F.R. 5.21, as such regulation existed on January 1, 2023, except that if at any time the department determines that the capital of such a converted savings association is impaired, the director may require the members to make up the capital impairment.

(4) The director may adopt and promulgate rules and regulations governing such converted mutual savings associations. In adopting and promulgating such rules and regulations, the director may consider the provisions of sections 8-301 to 8-384 governing savings associations in mutual form of corporate organization.

Source: Laws 1998, LB 1321, § 30; Laws 2005, LB 533, § 10; Laws 2010, LB890, § 5; Laws 2017, LB140, § 79; Laws 2018, LB812, § 5; Laws 2019, LB258, § 5; Laws 2020, LB909, § 7; Laws 2021, LB363, § 6; Laws 2022, LB707, § 16; Laws 2023, LB92, § 8. Operative date June 7, 2023.

8-1,140 Federally chartered bank; bank organized under laws of Nebraska; rights, privileges, benefits, and immunities; exception.

Notwithstanding any of the other provisions of the Nebraska Banking Act or any other Nebraska statute, any bank incorporated under the laws of this state and organized under the provisions of the act, or under the laws of this state as they existed prior to May 9, 1933, shall directly, or indirectly through a department, a subsidiary, or subsidiaries, have all the rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, 2023, by a federally chartered bank doing business in Nebraska, including the exercise of all powers and activities that are permitted for a financial subsidiary of a federally chartered bank. Such rights, powers, privileges, benefits, and immunities shall not relieve such bank from payment of state taxes assessed under any applicable laws of this state.

Source: Laws 1999, LB 396, § 5; Laws 2000, LB 932, § 4; Laws 2001, LB 53, § 2; Laws 2002, LB 957, § 7; Laws 2003, LB 217, § 9; Laws 2004, LB 999, § 3; Laws 2005, LB 533, § 11; Laws 2006, LB 876, § 12; Laws 2007, LB124, § 6; Laws 2008, LB851, § 7; Laws 2009, LB327, § 6; Laws 2010, LB890, § 6; Laws 2011, LB74, § 1; Laws 2012, LB963, § 4; Laws 2013, LB213, § 5; Laws 2014, LB712, § 1; Laws 2015, LB286, § 1; Laws 2016, LB676, § 1; Laws 2017, LB140, § 130; Laws 2018, LB812, § 6; Laws 2019, LB258, § 6; Laws 2020, LB909, § 8; Laws 2021, LB363, § 7; Laws 2021, LB649, § 38; Laws 2022, LB707, § 17; Laws 2023, LB92, § 9. Operative date June 7, 2023.

ARTICLE 3

BUILDING AND LOAN ASSOCIATIONS

Section

8-318. Stock; share account; deposits; withdrawal methods authorized; investments by fiduciaries; rights; retirement plan, investments; building and loan association as trustee or custodian; powers and duties.

Section

8-355. Federal savings and loan; associations organized under laws of Nebraska; rights, privileges, benefits, and immunities; exception.

8-318 Stock; share account; deposits; withdrawal methods authorized; investments by fiduciaries; rights; retirement plan, investments; building and loan association as trustee or custodian; powers and duties.

(1)(a) Shares of stock in any association, or in any federal savings and loan association incorporated under the provisions of the federal Home Owners' Loan Act, with its principal office and place of business in this state, may be subscribed for, held, transferred, surrendered, withdrawn, and forfeited and payments thereon received and receipted for by any person, regardless of age, in the same manner and with the same binding effect as though such person were of the age of majority, except that a minor or his or her estate shall not be bound on his or her subscription to stock except to the extent of payments actually made thereon.

(b) Whenever a share account is accepted by any building and loan association in the name of any person, regardless of age, the deposit may be withdrawn by the shareholder by any of the following methods:

(i) Check or other instrument in writing. The check or other instrument in writing constitutes a receipt or acquittance if the check or other instrument in writing is signed by the shareholder and constitutes a valid release in discharge to the building and loan association for all payments so made; or

(ii) Electronic means through:

(A) Preauthorized direct withdrawal;

(B) An automatic teller machine;

(C) A debit card;

(D) A transfer by telephone;

(E) A network, including the Internet; or

(F) Any electronic terminal, computer, magnetic tape, or other electronic means.

(c) This section shall not be construed to affect the rights, liabilities, or responsibilities of participants in an electronic fund transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as it existed on January 1, 2023, and shall not affect the legal relationships between a minor and any person other than the building and loan association.

(2) All trustees, guardians, personal representatives, administrators, and conservators appointed by the courts of this state may invest and reinvest in, acquire, make withdrawals in whole or in part, hold, transfer, or make new or additional investments in or transfers of shares of stock in any (a) building and loan association organized under the laws of the State of Nebraska or (b) federal savings and loan association incorporated under the provisions of the federal Home Owners' Loan Act, having its principal office and place of business in this state, without an order of approval from any court.

(3) Trustees created solely by the terms of a trust instrument may invest in, acquire, hold, and transfer such shares, and make withdrawals, in whole or in part, therefrom, without any order of court, unless expressly limited, restricted, or prohibited therefrom by the terms of such trust instrument.

(4) All building and loan associations referred to in this section are qualified to act as trustee or custodian within the provisions of the federal Self-Employed Individuals Tax Retirement Act of 1962, as amended, or under the terms and provisions of section 408(a) of the Internal Revenue Code, if the provisions of such retirement plan require the funds of such trust or custodianship to be invested exclusively in shares or accounts in the association or in other associations. If any such retirement plan, within the judgment of the association, constitutes a qualified plan under the federal Self-Employed Individuals Tax Retirement Act of 1962, or under the terms and provisions of section 408(a) of the Internal Revenue Code, and the regulations promulgated thereunder at the time the trust was established and accepted by the association, is subsequently determined not to be such a qualified plan or subsequently ceases to be such a qualified plan, in whole or in part, the association may continue to act as trustee of any deposits theretofore made under such plan and to dispose of the same in accordance with the directions of the member and beneficiaries thereof. No association, in respect to savings made under this section, shall be required to segregate such savings from other assets of the association. The association shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this section.

Source: Laws 1899, c. 17, § 7, p. 88; R.S.1913, § 492; Laws 1919, c. 190, tit. V, art. XIX, § 8, p. 726; C.S.1922, § 8090; C.S.1929, § 8-308; Laws 1939, c. 4, § 1, p. 62; C.S.Supp.,1941, § 8-308; R.S.1943, § 8-318; Laws 1953, c. 11, § 1, p. 76; Laws 1955, c. 11, § 1, p. 77; Laws 1971, LB 375, § 1; Laws 1975, LB 208, § 2; Laws 1986, LB 909, § 8; Laws 1995, LB 574, § 3; Laws 2005, LB 533, § 16; Laws 2016, LB760, § 3; Laws 2017, LB140, § 133; Laws 2018, LB812, § 7; Laws 2019, LB258, § 9; Laws 2020, LB909, § 10; Laws 2021, LB363, § 10; Laws 2022, LB707, § 18; Laws 2023, LB92, § 10.

Operative date June 7, 2023.

8-355 Federal savings and loan; associations organized under laws of Nebraska; rights, privileges, benefits, and immunities; exception.

Notwithstanding any of the provisions of Chapter 8, article 3, or any other Nebraska statute, except as provided in section 8-345.02, any association incorporated under the laws of the State of Nebraska and organized under the provisions of such article shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, 2023, by a federal savings and loan association doing business in Nebraska. Such rights, powers, privileges, benefits, and immunities shall not relieve such association from payment of state taxes assessed under any applicable laws of this state.

Source: Laws 1971, LB 185, § 1; Laws 1972, LB 1288, § 1; Laws 1973, LB 351, § 1; Laws 1974, LB 784, § 1; Laws 1975, LB 201, § 1; Laws 1976, LB 763, § 2; Laws 1977, LB 224, § 1; Laws 1978, LB 717, § 6; Laws 1979, LB 154, § 2; Laws 1980, LB 865, § 1; Laws 1981, LB 71, § 1; Laws 1982, LB 646, § 1; Laws 1983, LB 144, § 1; Laws 1984, LB 923, § 1; Laws 1985, LB 128, § 1; Laws 1986, LB 1052, § 1; Laws 1987, LB 115, § 1; Laws 1988, LB 858, § 1; Laws 1989, LB 207, § 1; Laws 1990, LB 1016, § 1; Laws 1991, LB 98, § 1; Laws 1992, LB 470, § 4; Laws 1992, LB 985, § 1; Laws 1993, LB 288, § 1; Laws 1994, LB 876, § 1; Laws

1995, LB 41, § 1; Laws 1996, LB 949, § 1; Laws 1997, LB 35, § 1; Laws 1998, LB 1321, § 67; Laws 1999, LB 396, § 12; Laws 2000, LB 932, § 16; Laws 2001, LB 53, § 6; Laws 2002, LB 957, § 8; Laws 2003, LB 217, § 11; Laws 2004, LB 999, § 4; Laws 2005, LB 533, § 19; Laws 2006, LB 876, § 13; Laws 2007, LB124, § 7; Laws 2008, LB851, § 11; Laws 2009, LB327, § 9; Laws 2010, LB890, § 8; Laws 2011, LB74, § 2; Laws 2012, LB963, § 11; Laws 2013, LB213, § 8; Laws 2014, LB712, § 2; Laws 2015, LB286, § 2; Laws 2016, LB676, § 2; Laws 2017, LB140, § 134; Laws 2018, LB812, § 8; Laws 2019, LB258, § 11; Laws 2020, LB909, § 11; Laws 2021, LB363, § 11; Laws 2022, LB707, § 19; Laws 2023, LB92, § 11.
Operative date June 7, 2023.

ARTICLE 6

ASSESSMENTS AND FEES

Section

8-602. Department of Banking and Finance; services; schedule of fees.

8-602 Department of Banking and Finance; services; schedule of fees.

The Director of Banking and Finance shall charge and collect fees for certain services rendered by the Department of Banking and Finance according to the following schedule:

- (1) For filing and examining articles of incorporation, articles of association, and bylaws, except credit unions, one hundred dollars, and for credit unions, fifty dollars;
- (2) For filing and examining an amendment to articles of incorporation, articles of association, and bylaws, except credit unions, fifty dollars, and for credit unions, fifteen dollars;
- (3) For issuing to banks, credit card banks, trust companies, and building and loan associations a charter, authority, or license to do business in this state, a sum which shall be determined on the basis of one dollar and fifty cents for each one thousand dollars of authorized capital, except that the minimum fee in each case shall be two hundred twenty-five dollars;
- (4) For issuing to digital asset depositories under the Nebraska Financial Innovation Act a charter to do business in this state, the sum of fifty thousand dollars;
- (5) For issuing an executive officer's or loan officer's license, fifty dollars at the time of the initial license, except credit unions for which the fee shall be twenty-five dollars at the time of the initial license;
- (6) For affixing certificate and seal, five dollars;
- (7) For making substitution of securities held by it and issuing a receipt, fifteen dollars;
- (8) For issuing a certificate of approval to a credit union, ten dollars;
- (9) For investigating the applications required by sections 8-117, 8-120, 8-331, and 8-2402 and the documents required by section 8-201, the cost of such examination, investigation, and inspection, including all legal expenses and the cost of any hearing transcript, with a minimum fee under (a) sections 8-117, 8-120, and 8-2402 of two thousand five hundred dollars, (b) section

8-331 of two thousand dollars, and (c) section 8-201 of one thousand dollars. The department may require the applicant to procure and give a surety bond in such principal amount as the department may determine and conditioned for the payment of the fees provided in this subdivision;

(10) For the handling of pledged securities as provided in sections 8-210, 8-2727, and 8-3022 at the time of the initial deposit of such securities, one dollar and fifty cents for each thousand dollars of securities deposited and a like amount on or before January 15 each year thereafter. The fees shall be paid by the entity pledging the securities;

(11) For investigating an application to move its location within the city or village limits of its original license or charter for banks, trust companies, and building and loan associations, two hundred fifty dollars;

(12) For investigating an application under subdivision (6) of section 8-115.01, five hundred dollars;

(13) For investigating an application for approval to establish or acquire a branch pursuant to section 8-157 or 8-2103 or to establish a mobile branch pursuant to section 8-157, two hundred fifty dollars;

(14) For investigating a notice of acquisition of control under subsection (1) of section 8-1502, five hundred dollars;

(15) For investigating an application for a cross-industry merger under section 8-1510, five hundred dollars;

(16) For investigating an application for a merger of two state banks, a merger of a state bank and a national bank in which the state bank is the surviving entity, or an interstate merger application in which the Nebraska state chartered bank is the resulting bank, five hundred dollars;

(17) For investigating an application or a notice to establish a branch trust office, five hundred dollars;

(18) For investigating an application or a notice to establish a representative trust office, five hundred dollars;

(19) For investigating an application to establish a credit union branch under section 21-1725.01, two hundred fifty dollars;

(20) For investigating an applicant under section 8-1513, five thousand dollars;

(21) For investigating a request to extend a conditional bank charter under section 8-117, one thousand dollars; and

(22) For investigating an application to establish a branch office, for a merger or an acquisition of control, or for a request to extend a conditional charter for a digital asset depository, five hundred dollars.

Source: Laws 1937, c. 20, § 2, p. 129; C.S.Supp., 1941, § 8-702; R.S. 1943, § 8-602; Laws 1957, c. 10, § 5, p. 132; Laws 1961, c. 15, § 8, p. 113; Laws 1967, c. 23, § 2, p. 127; Laws 1969, c. 43, § 1, p. 252; Laws 1972, LB 1194, § 1; Laws 1973, LB 164, § 21; Laws 1976, LB 561, § 3; Laws 1987, LB 642, § 1; Laws 1992, LB 470, § 5; Laws 1992, LB 757, § 11; Laws 1993, LB 81, § 54; Laws 1995, LB 599, § 4; Laws 1998, LB 1321, § 68; Laws 1999, LB 396, § 13; Laws 2000, LB 932, § 17; Laws 2002, LB 1089, § 7; Laws 2002, LB 1094, § 7; Laws 2003, LB 131, § 8; Laws 2003, LB 217, § 14; Laws 2004, LB 999, § 5; Laws 2005, LB 533, § 20; Laws

2007, LB124, § 9; Laws 2009, LB327, § 10; Laws 2010, LB891, § 3; Laws 2011, LB74, § 3; Laws 2012, LB963, § 12; Laws 2013, LB616, § 50; Laws 2017, LB140, § 136; Laws 2019, LB258, § 12; Laws 2021, LB649, § 44; Laws 2023, LB92, § 12.
Operative date June 7, 2023.

Cross References

Nebraska Financial Innovation Act, see section 8-3001.

ARTICLE 11

SECURITIES ACT OF NEBRASKA

Section

8-1101. Terms, defined.

8-1101.01. Federal rules and regulations; fair practice or ethical rules or standards; defined.

8-1101 Terms, defined.

For purposes of the Securities Act of Nebraska, unless the context otherwise requires:

(1) Agent means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect sales of securities, but agent does not include an individual who represents (a) an issuer in (i) effecting a transaction in a security exempted by subdivision (6), (7), or (8) of section 8-1110, (ii) effecting certain transactions exempted by section 8-1111, (iii) effecting transactions in a federal covered security as described in section 18(b)(3) of the Securities Act of 1933, or (iv) effecting transactions with existing employees, limited liability company members, partners, or directors of the issuer or any of its subsidiaries if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state or (b) a broker-dealer in effecting transactions described in section 15(h)(2) of the Securities Exchange Act of 1934. A partner, limited liability company member, officer, or director of a broker-dealer is an agent only if he or she otherwise comes within this definition;

(2) Broker-dealer means any person engaged in the business of effecting transactions in securities for the account of others or for his or her own account. Broker-dealer does not include (a) an issuer-dealer, agent, bank, savings institution, or trust company, (b) an issuer effecting a transaction in its own security exempted by subdivision (5)(a), (b), (c), (d), (e), or (f) of section 8-1110 or which qualifies as a federal covered security pursuant to section 18(b)(1) of the Securities Act of 1933, (c) a person who has no place of business in this state if he or she effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, credit unions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, (d) a person who has no place of business in this state if during any period of twelve consecutive months he or she does not direct more than five offers to sell or to buy into this state in any manner to persons other than those specified in subdivision (2)(c) of this section, or (e) a person who is a resident of Canada

and who has no office or other physical presence in Nebraska if the following conditions are satisfied: (i) The person must be registered with, or be a member of, a securities self-regulatory organization in Canada or a stock exchange in Canada; (ii) the person must maintain, in good standing, its provisional or territorial registration or membership in a securities self-regulatory organization in Canada, or stock exchange in Canada; (iii) the person effects, or attempts to effect, (A) a transaction with or for a Canadian client who is temporarily present in this state and with whom the Canadian broker-dealer had a bona fide customer relationship before the client entered this state or (B) a transaction with or for a Canadian client in a self-directed tax advantaged retirement plan in Canada of which that client is the holder or contributor; and (iv) the person complies with all provisions of the Securities Act of Nebraska relating to the disclosure of material information in connection with the transaction;

(3) Department means the Department of Banking and Finance. Director means the Director of Banking and Finance of the State of Nebraska except as further provided in section 8-1120;

(4) Federal covered adviser means a person who is registered under section 203 of the Investment Advisers Act of 1940;

(5) Federal covered security means any security described as a covered security under section 18(b) of the Securities Act of 1933 or rules and regulations under the act;

(6) Guaranteed means guaranteed as to payment of principal, interest, or dividends;

(7) Investment adviser means any person who for compensation engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities or who for compensation and as a part of a regular business issues or promulgates analyses or reports concerning securities. Investment adviser also includes financial planners and other persons who, as an integral component of other financially related services, provide the foregoing investment advisory services to others for compensation and as part of a business or who hold themselves out as providing the foregoing investment advisory services to others for compensation. Investment adviser does not include (a) an investment adviser representative, (b) a bank, savings institution, or trust company, (c) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his or her profession, (d) a broker-dealer or its agent whose performance of these services is solely incidental to its business as a broker-dealer and who receives no special compensation for them, (e) an issuer-dealer, (f) a publisher of any bona fide newspaper, news column, newsletter, news magazine, or business or financial publication or service, whether communicated in hard copy form, by electronic means, or otherwise which does not consist of the rendering of advice on the basis of the specific investment situation of each client, (g) a person who has no place of business in this state if (i) his or her only clients in this state are other investment advisers, federal covered advisers, broker-dealers, banks, savings institutions, credit unions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (ii) during the

preceding twelve-month period, he or she has had five or fewer clients who are residents of this state other than those persons specified in subdivision (g)(i) of this subdivision, (h) any person that is a federal covered adviser or is excluded from the definition of investment adviser under section 202 of the Investment Adviser Act of 1940, or (i) such other persons not within the intent of this subdivision as the director may by rule and regulation or order designate;

(8) Investment adviser representative means any partner, limited liability company member, officer, or director or any person occupying a similar status or performing similar functions of a partner, limited liability company member, officer, or director or other individual, except clerical or ministerial personnel, who is employed by or associated with an investment adviser that is registered or required to be registered under the Securities Act of Nebraska or who has a place of business located in this state and is employed by or associated with a federal covered adviser, and who (a) makes any recommendations or otherwise renders advice regarding securities, (b) manages accounts or portfolios of clients, (c) determines which recommendation or advice regarding securities should be given, (d) solicits, offers, or negotiates for the sale of or sells investment advisory services, or (e) supervises employees who perform any of the foregoing;

(9) Issuer means any person who issues or proposes to issue any security, except that (a) with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors, or persons performing similar functions, or of the fixed, restricted management, or unit type, the term issuer means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued and (b) with respect to a fractional or pooled interest in a viatical settlement contract, issuer means the person who creates, for the purpose of sale, the fractional or pooled interest. In the case of a viatical settlement contract that is not fractionalized or pooled, issuer means the person effecting a transaction with a purchaser of such contract;

(10) Issuer-dealer means (a) any issuer located in the State of Nebraska or (b) any issuer which registered its securities by qualification who proposes to sell to the public of the State of Nebraska the securities that it issues without the benefit of another registered broker-dealer. Such securities shall have been approved for sale in the State of Nebraska pursuant to section 8-1104;

(11) Nonissuer means not directly or indirectly for the benefit of the issuer;

(12) Person means an individual, a corporation, a partnership, a limited liability company, an association, a joint-stock company, a trust in which the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government;

(13) Sale or sell includes every contract of sale of, contract to sell, or disposition of a security or interest in a security for value. Offer or offer to sell includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value. Any security given or delivered with or as a bonus on account of any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock shall be considered to involve an offer and sale. Every sale or offer of a warrant or right

to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, shall be considered to include an offer of the other security;

(14) Securities Act of 1933, Securities Exchange Act of 1934, Investment Advisers Act of 1940, Investment Company Act of 1940, Commodity Exchange Act, and the federal Interstate Land Sales Full Disclosure Act means the acts as they existed on January 1, 2023;

(15) Security means any note, stock, treasury stock, bond, debenture, units of beneficial interest in a real estate trust, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, viatical settlement contract or any fractional or pooled interest in such contract, membership interest in any limited liability company organized under Nebraska law or any other jurisdiction unless otherwise excluded from this definition, voting-trust certificate, certificate of deposit for a security, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease, in general any interest or instrument commonly known as a security, or any certificate of interest or participation in, temporary or interim certificate for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing. Security does not include any insurance or endowment policy or annuity contract issued by an insurance company. Security also does not include a membership interest in a limited liability company when all of the following exist: (a) The member enters into a written commitment to be engaged actively and directly in the management of the limited liability company; and (b) all members of the limited liability company are actively engaged in the management of the limited liability company. For the limited purposes of determining professional malpractice insurance premiums, a security issued through a transaction that is exempted pursuant to subdivision (23) of section 8-1111 shall not be considered a security;

(16) State means any state, territory, or possession of the United States as well as the District of Columbia and Puerto Rico; and

(17) Viatical settlement contract means an agreement for the purchase, sale, assignment, transfer, devise, or bequest of all or any portion of the death benefit or ownership of a life insurance policy or contract for consideration which is less than the expected death benefit of the life insurance policy or contract. Viatical settlement contract does not include (a) the assignment, transfer, sale, devise, or bequest of a death benefit of a life insurance policy or contract made by the viator to an insurance company or to a viatical settlement provider or broker licensed pursuant to the Viatical Settlements Act, (b) the assignment of a life insurance policy or contract to a bank, savings bank, savings and loan association, credit union, or other licensed lending institution as collateral for a loan, or (c) the exercise of accelerated benefits pursuant to the terms of a life insurance policy or contract and consistent with applicable law.

Source: Laws 1965, c. 549, § 1, p. 1763; Laws 1973, LB 167, § 1; Laws 1977, LB 263, § 1; Laws 1978, LB 760, § 1; Laws 1989, LB 60, § 1; Laws 1991, LB 305, § 2; Laws 1993, LB 216, § 1; Laws 1993, LB 121, § 96; Laws 1994, LB 884, § 10; Laws 1995, LB 119, § 1; Laws 1996, LB 1053, § 7; Laws 1997, LB 335, § 1;

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Laws 2001, LB 52, § 43; Laws 2001, LB 53, § 19; Laws 2011, LB76, § 1; Laws 2013, LB214, § 1; Laws 2017, LB148, § 1; Laws 2019, LB259, § 1; Laws 2020, LB909, § 12; Laws 2021, LB363, § 12; Laws 2022, LB707, § 20; Laws 2023, LB92, § 13.
Operative date June 7, 2023.

Cross References

Viatical Settlements Act, see section 44-1101.

8-1101.01 Federal rules and regulations; fair practice or ethical rules or standards; defined.

For purposes of the Securities Act of Nebraska:

(1) Federal rules and regulations adopted under the Investment Advisers Act of 1940 or the Securities Act of 1933 means such rules and regulations as they existed on January 1, 2023; and

(2) Fair practice or ethical rules or standards promulgated by the Securities and Exchange Commission, the Financial Industry Regulatory Authority, or a self-regulatory organization approved by the Securities and Exchange Commission means such practice, rules, or standards as they existed on January 1, 2023.

Source: Laws 2017, LB148, § 2; Laws 2019, LB259, § 2; Laws 2020, LB909, § 13; Laws 2021, LB363, § 13; Laws 2022, LB707, § 21; Laws 2023, LB92, § 14.
Operative date June 7, 2023.

ARTICLE 17

COMMODITY CODE

Section

8-1704. CFTC rule, defined.

8-1707. Commodity Exchange Act, defined.

8-1704 CFTC rule, defined.

CFTC rule shall mean any rule, regulation, or order of the Commodity Futures Trading Commission in effect on January 1, 2023.

Source: Laws 1987, LB 575, § 4; Laws 1993, LB 283, § 2; Laws 2011, LB76, § 4; Laws 2019, LB259, § 6; Laws 2020, LB909, § 16; Laws 2021, LB363, § 15; Laws 2022, LB707, § 23; Laws 2023, LB92, § 15.
Operative date June 7, 2023.

8-1707 Commodity Exchange Act, defined.

Commodity Exchange Act shall mean the act of Congress known as the Commodity Exchange Act, 7 U.S.C. 1, as amended on January 1, 2023.

Source: Laws 1987, LB 575, § 7; Laws 1993, LB 283, § 5; Laws 2011, LB76, § 5; Laws 2019, LB259, § 7; Laws 2020, LB909, § 17; Laws 2021, LB363, § 16; Laws 2022, LB707, § 24; Laws 2023, LB92, § 16.
Operative date June 7, 2023.

ARTICLE 27

NEBRASKA MONEY TRANSMITTERS ACT

Section

8-2724. Licensure requirement; applicability.

8-2724 Licensure requirement; applicability.

(1) The requirement for a license under the Nebraska Money Transmitters Act does not apply to:

- (a) The United States or any department, agency, or instrumentality thereof;
- (b) Any post office of the United States Postal Service;
- (c) A state or any political subdivision thereof;

(d)(i) Banks, credit unions, digital asset depository institutions as defined in section 8-3003, building and loan associations, savings and loan associations, savings banks, or mutual banks organized under the laws of any state or the United States;

(ii) Subsidiaries of the institutions listed in subdivision (d)(i) of this subsection;

(iii) Bank holding companies which have a banking subsidiary located in Nebraska and whose debt securities have an investment grade rating by a national rating agency; or

(iv) Authorized delegates of the institutions and entities listed in subdivision (d)(i), (ii), or (iii) of this subsection, except that authorized delegates that are not banks, credit unions, building and loan associations, savings and loan associations, savings banks, mutual banks, subsidiaries of any of the foregoing, or bank holding companies shall comply with all requirements imposed upon authorized delegates under the act;

(e) The provision of electronic transfer of government benefits for any federal, state, or county governmental agency, as defined in Consumer Financial Protection Bureau Regulation E, 12 C.F.R. part 1005, as such regulation existed on January 1, 2023, by a contractor for and on behalf of the United States or any department, agency, or instrumentality thereof or any state or any political subdivision thereof;

(f) An operator of a payment system only to the extent that the payment system provides processing, clearing, or settlement services between or among persons who are all exempt under this section in connection with wire transfers, credit card transactions, debit card transactions, automated clearinghouse transfers, or similar fund transfers; or

(g) A person, firm, corporation, or association licensed in this state and acting within this state within the scope of a license:

- (i) As a collection agency pursuant to the Collection Agency Act;
- (ii) As a credit services organization pursuant to the Credit Services Organization Act; or
- (iii) To engage in the debt management business pursuant to sections 69-1201 to 69-1217.

(2) An authorized delegate of a licensee or of an exempt entity, acting within the scope of its authority conferred by a written contract as described in section 8-2739, is not required to obtain a license under the Nebraska Money Transmitters Act.

ters Act, except that such an authorized delegate shall comply with the other provisions of the act which apply to money transmission transactions.

Source: Laws 2013, LB616, § 24; Laws 2021, LB363, § 17; Laws 2021, LB649, § 48; Laws 2022, LB707, § 25; Laws 2023, LB92, § 17. Operative date June 7, 2023.

Cross References

Collection Agency Act, see section 45-601.

Credit Services Organization Act, see section 45-801.

ARTICLE 29

**FINANCIAL EXPLOITATION OF A VULNERABLE
ADULT OR SENIOR ADULT**

(a) FINANCIAL INSTITUTIONS

Section

8-2903. Financial exploitation of a vulnerable adult or senior adult; financial institution; authority to delay, refuse, or prevent certain activity; expiration; effect; immunity.

(a) FINANCIAL INSTITUTIONS

8-2903 Financial exploitation of a vulnerable adult or senior adult; financial institution; authority to delay, refuse, or prevent certain activity; expiration; effect; immunity.

(1) When a financial institution, or an employee of a financial institution, reasonably believes, or has received information from the department or a law enforcement agency demonstrating that it is reasonable to believe, that financial exploitation of a vulnerable adult or senior adult may have occurred, may have been attempted, is occurring, or is being attempted, the financial institution may, but is not required to:

(a) Delay or refuse a transaction with or involving the vulnerable adult or senior adult;

(b) Delay or refuse to permit the withdrawal or disbursement of funds contained in the vulnerable adult's or senior adult's account;

(c) Prevent a change in ownership of the vulnerable adult's or senior adult's account;

(d) Prevent a transfer of funds from the vulnerable adult's or senior adult's account to an account owned wholly or partially by another person;

(e) Refuse to comply with instructions given to the financial institution by an agent or a person acting for or with an agent under a power of attorney signed or purported to have been signed by the vulnerable adult or senior adult; or

(f) Prevent the designation or change the designation of beneficiaries to receive any property, benefit, or contract rights for a vulnerable adult or senior adult at death.

(2) A financial institution is not required to act under subsection (1) of this section when provided with information alleging that financial exploitation may have occurred, may have been attempted, is occurring, or is being attempted, but may use the financial institution's discretion to determine whether or not to act under subsection (1) of this section based on the information available to the financial institution at the time.

(3)(a)(i) A financial institution may notify any third party reasonably associated with a vulnerable adult or senior adult if the financial institution reasonably believes that the financial exploitation of a vulnerable adult or senior adult may have occurred, may have been attempted, is occurring, or is being attempted.

(ii) A third party reasonably associated with a vulnerable adult or senior adult includes, but is not limited to, the following: (A) A parent, spouse, adult child, sibling, or other known family member or close associate of a vulnerable adult or senior adult; (B) an authorized contact provided by a vulnerable adult or senior adult to the financial institution; (C) a co-owner, additional authorized signatory, or beneficiary on a vulnerable adult's or a senior adult's account; (D) an attorney in fact, trustee, conservator, guardian, or other fiduciary who has been selected by a vulnerable adult or senior adult, a court, or a third party to manage some or all of the financial affairs of the vulnerable adult or senior adult; and (E) an attorney known to represent or have represented the vulnerable adult or senior adult.

(b) A financial institution may choose not to notify any third party reasonably associated with a vulnerable adult or senior adult of suspected financial exploitation of the vulnerable adult or senior adult if the financial institution reasonably believes the third party is, may be, or may have been engaged in the financial exploitation of the vulnerable adult or senior adult or if requested to refrain from making a notification by a law enforcement agency, if such notification could interfere with a law enforcement investigation.

(c) Nothing in this subsection shall prevent a financial institution from notifying the department or a law enforcement agency, if the financial institution reasonably believes that the financial exploitation of a vulnerable adult or senior adult may have occurred, may have been attempted, is occurring, or is being attempted.

(4) The authority granted the financial institution under subsection (1) of this section expires upon the sooner of: (a) Thirty business days after the date on which the financial institution first acted under subsection (1) of this section; (b) when the financial institution is satisfied that the transaction or act will not result in financial exploitation of the vulnerable adult or senior adult; or (c) upon termination by an order of a court of competent jurisdiction.

(5) Unless otherwise directed by order of a court of competent jurisdiction, a financial institution may extend the duration under subsection (4) of this section based on a reasonable belief that the financial exploitation of a vulnerable adult or senior adult may continue to occur or continue to be attempted.

(6) A financial institution and its bank holding company, if any, and any employees, agents, officers, and directors of the financial institution and its bank holding company, if any, shall be immune from any civil, criminal, or administrative liability that may otherwise exist (a) for delaying or refusing to execute a transaction, withdrawal, or disbursement, or for not delaying or refusing to execute such transaction, withdrawal, or disbursement under this section and (b) for actions taken in furtherance of determinations made under subsections (1) through (5) of this section.

(7)(a) Notwithstanding any other law to the contrary, the refusal by a financial institution to engage in a transaction as authorized under subsection (1) of this section shall not constitute the wrongful dishonor of an item under section 4-402, Uniform Commercial Code.

(b) Notwithstanding any other law to the contrary, a reasonable belief that payment of a check will facilitate the financial exploitation of a vulnerable adult or senior adult shall constitute reasonable grounds to doubt the collectability of the item for purposes of the federal Check Clearing for the 21st Century Act, 12 U.S.C. 5001 et seq., the federal Expedited Funds Availability Act, 12 U.S.C. 4001 et seq., and 12 C.F.R. part 229, as such acts and part existed on January 1, 2023.

Source: Laws 2020, LB909, § 20; Laws 2021, LB363, § 23; Laws 2022, LB707, § 26; Laws 2023, LB92, § 18.
Operative date June 7, 2023.

ARTICLE 30

NEBRASKA FINANCIAL INNOVATION ACT

Section

- 8-3002. Legislative findings and declarations.
- 8-3003. Terms, defined.
- 8-3004. Director; powers and duties.
- 8-3005. Digital asset depository; powers; digital asset depository institution; organization; operating authority; demand deposits and loans; prohibited.
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- 8-3012. Digital asset depository institution; formation; articles of incorporation; contents; filing requirements; capital requirements; bank holding company; powers.
- 8-3013. Digital asset depository institution; capital and surplus requirements.
- 8-3014. Financial institution; digital asset depository department; charter amendment; director; powers and duties.
- 8-3015. Digital asset depository; act as; charter to operate; required; application; fee.
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8-3002 Legislative findings and declarations.

The Legislature finds and declares that:

(1) Economic development initiatives demand buy-in and input from community stakeholders across multiple industries. The Legislature should send a strong message that Nebraska wants to bring high-tech jobs and digital asset operations to our state. Nebraska has an incredible opportunity to be a leader in this emerging technology;

(2) Nebraska desires to create an entrepreneurial ecosystem where young talent can be paired with private investors in order to create jobs, enhance our quality of life, and prevent the brain drain that is particularly acute in rural Nebraska. If Nebraska does not make intentional and meaningful changes to how it recruits and retains young people, Nebraska will be left behind;

(3) The rapid innovation of blockchain and digital ledger technology, including the growing use of virtual currency, digital assets, and other controllable electronic records has complicated the development of blockchain services and products in the marketplace;

(4) Blockchain innovators are able and willing to address banking compliance challenges such as federal customer identification, anti-money laundering, and beneficial ownership requirements to comply with regulators' concerns;

(5) Compliance with federal and state laws, including, but not limited to, know-your-customer and anti-money-laundering rules and the federal Bank Secrecy Act, is critical to ensuring the future growth and reputation of the blockchain and technology industries as a whole; and

(6) Authorizing digital asset depositories in Nebraska will provide a necessary and valuable service to blockchain innovators and customers, emphasize Nebraska's partnership with the technology and financial industries, safely grow this state's ever-evolving financial sector, and afford more opportunities for Nebraska residents.

Source: Laws 2021, LB649, § 2; Laws 2023, LB92, § 19.
Operative date June 7, 2023.

8-3003 Terms, defined.

For purposes of the Nebraska Financial Innovation Act:

(1) Blockchain means a distributed digital record of controllable electronic record transactions;

(2) Centralized finance means centralized digital asset exchanges, businesses, or organizations with a valid physical address;

(3) Control has the following meaning:

(a) A person has control of a controllable electronic record if:

(i) The following conditions are met:

(A) The controllable electronic record or the system in which it is recorded, if any, gives the person:

(I) The power to derive substantially all the benefit from the controllable electronic record;

(II) Subject to subdivision (b) of this subdivision, the exclusive power to prevent others from deriving substantially all the benefit from the controllable electronic record; and

(III) Subject to subdivision (b) of this subdivision, the exclusive power to transfer control of the controllable electronic record to another person or cause another person to obtain control of a controllable electronic record that derives from the controllable electronic record; and

(B) The controllable electronic record, a record attached to or logically associated with the controllable electronic record, or the system in which the controllable electronic record is recorded, if any, enables the person to readily

identify itself as having the powers specified in subdivision (a)(i) of this subdivision; or

(ii) Another person obtains control of the controllable electronic record on behalf of the person, or having previously obtained control of the controllable electronic record, acknowledges that it has control on behalf of the person.

(b) A power specified in subdivisions (3)(a)(i)(A)(II) or (III) of this section can be exclusive, even if:

(i) The controllable electronic record or the system in which it is recorded, if any, limits the use to which the controllable electronic record may be put or has protocols that are programmed to result in a transfer of control; and

(ii) The person has agreed to share the power with another person.

(c) For the purposes of subdivision (3)(a)(i)(B) of this section, a person may be identified in any way, including by name, identifying number, cryptographic key, office, or account number;

(4) Controllable electronic borrowing means the act of receiving digital assets or the use of digital assets from a lender in exchange for the payment to the lender of digital assets, interest, fees, or rewards;

(5) Controllable electronic record means an electronic record that can be subjected to control. The term has the same meaning as digital asset and does not include electronic chattel paper, electronic documents, investment property, and transferable records under the Uniform Electronic Transactions Act;

(6) Controllable electronic record exchange means a business that allows customers to purchase, sell, convert, send, receive, or trade digital assets for other digital assets;

(7) Controllable electronic record lending means the act of providing digital assets to a borrower in exchange for digital assets, interest, fees, or rewards;

(8) Controllable electronic records staking means the act of pledging a digital asset or token with an expectation of gaining digital assets, interest, fees, or other rewards on such act;

(9) Customer means a digital asset depositor or digital asset account holder;

(10) Decentralized finance means digital asset exchanges, businesses, or organizations operating independently on blockchains;

(11) Department means the Department of Banking and Finance;

(12) Digital asset depository means a financial institution that securely holds liquid assets when such assets are in the form of controllable electronic records, either as a corporation organized, chartered, and operated pursuant to the Nebraska Financial Innovation Act as a digital asset depository institution or a financial institution operating a digital asset depository business as a digital asset depository department under a charter granted by the director;

(13) Digital asset depository department means a financial institution operating a digital asset depository business as a digital asset depository department under a charter granted by the director;

(14) Digital asset depository institution means a corporation operating a digital asset depository business organized and chartered pursuant to the Nebraska Financial Innovation Act;

(15) Director means the Director of Banking and Finance;

(16) Financial institution means a bank, savings bank, building and loan association, or savings and loan association chartered by the United States, the department, or a foreign state agency; or a trust company;

(17) Fork means a change to the protocol of a blockchain network;

(18) Independent node verification network means a shared electronic database where copies of the same information are stored on multiple computers; and

(19) Stablecoin means a controllable electronic record designed to have a stable value that is backed by a reserve asset.

Source: Laws 2021, LB649, § 3; Laws 2023, LB92, § 20.
Operative date June 7, 2023.

8-3004 Director; powers and duties.

The director shall have the power to issue to corporations desiring to transact business as a digital asset depository institution charters to transact digital asset depository business as defined in the Nebraska Financial Innovation Act. The director shall have general supervision and control over such digital asset depositories.

Source: Laws 2021, LB649, § 4; Laws 2023, LB92, § 21.
Operative date June 7, 2023.

8-3005 Digital asset depository; powers; digital asset depository institution; organization; operating authority; demand deposits and loans; prohibited.

(1)(a) A digital asset depository may:

(i) Make contracts as a corporation under Nebraska law;

(ii) Sue and be sued;

(iii) Receive notes as permitted by federal law;

(iv) Carry on a nonlending digital asset banking business for customers, consistent with subdivision (2)(b) of this section;

(v) Provide payment services upon the request of a customer; and

(vi) Make an application to become a member bank of the federal reserve system.

(b) A digital asset depository shall maintain its main office and the primary office of its chief executive officer in Nebraska.

(c) As otherwise authorized by this section, a digital asset depository may conduct business with customers outside this state.

(2)(a) A digital asset depository institution, consistent with the Nebraska Financial Innovation Act, shall be organized as a corporation under the Nebraska Model Business Corporation Act to exercise the powers set forth in subsection (1) of this section.

(b) A digital asset depository institution shall not accept demand deposits of United States currency or United States currency that may be accessed or withdrawn by check or similar means for payment to third parties and except as otherwise provided in this subsection, a digital asset depository institution shall not make any loans to consumers for personal, property or household purposes, mortgage loans, or commercial loans of any fiat currency including, but not limited to, United States currency, including the provision of temporary

credit relating to overdrafts. Notwithstanding this prohibition against fiat currency lending by a digital asset depository institution, a digital asset depository institution may facilitate the provision of digital asset business services resulting from the interaction of customers with centralized finance or decentralized finance platforms including, but not limited to, controllable electronic record exchange, staking, controllable electronic record lending, and controllable electronic record borrowing. A digital asset depository institution may purchase debt obligations specified by subdivision (2)(c) of section 8-3009.

(c) A digital asset depository institution may open a branch in this state or in another state in the manner set forth in section 8-157 or 8-2303. A branch in another state is subject to the laws of the host state. A digital asset depository institution, including any branch of the digital asset depository institution, may only accept digital asset deposits or provide other digital asset business services under the Nebraska Financial Innovation Act to individual customers or a customer that is a legal entity other than a natural person engaged in a bona fide business which is lawful under the laws of Nebraska, the laws of the host state if the entity is headquartered in another state, and federal law.

(3) The deposit limitations of subdivision (2)(a)(ii) of section 8-157 shall not apply to a digital asset depository.

(4) Any United States currency coming into an account established by a customer of a digital asset depository institution shall be held in a financial institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, which maintained a main-chartered office in this state, any branch thereof in this state, or any branch of the financial institution which maintained the main-chartered office in this state prior to becoming a branch of such financial institution.

(5) A digital asset depository institution shall establish and maintain programs for compliance with the federal Bank Secrecy Act, in accordance with 12 C.F.R. 208.63, as the act and rule existed on January 1, 2023.

(6) A digital asset depository shall help meet the digital financial needs of the communities in which it operates, consistent with safe and sound operations, and shall maintain and update a public file available to any person on request and on any Internet website or mobile application it maintains containing specific information about its efforts to meet community needs, including:

- (a) The collection and reporting of data;
- (b) Its policies and procedures for accepting and responding to consumer complaints; and
- (c) Its efforts to assist with financial literacy or personal finance programs to increase knowledge and skills of Nebraska students in areas such as digital assets, budgeting, credit, checking and savings accounts, loans, stocks, and insurance.

Source: Laws 2021, LB649, § 5; Laws 2022, LB707, § 27; Laws 2023, LB92, § 22.

Operative date June 7, 2023.

Cross References

Nebraska Model Business Corporation Act, see section 21-201.

8-3007 Customers; criteria.

(1) No customer shall open or maintain an account with a digital asset depository or otherwise receive any services from the digital asset depository unless the customer meets the criteria of this subsection. A customer shall:

(a) Make sufficient evidence available to the digital asset depository to enable compliance with anti-money laundering, customer identification, and beneficial ownership requirements, as determined by the federal Bank Secrecy Act guidance and the policies and practices of the institution; and

(b) If the customer is a legal entity other than a natural person:

(i) Be in good standing with the jurisdiction in the United States in which it is incorporated or organized; and

(ii) Be engaged in a business that is lawful and bona fide in Nebraska, in the host state, if applicable, and under federal law consistent with subsection (3) of this section.

(2) A customer which meets the criteria of subsection (1) of this section may be issued a digital asset depository account and otherwise receive services from the digital asset depository, contingent on the digital asset depository maintaining sufficient insurance under subsection (5) of section 8-3023.

(3) Consistent with subdivisions (1)(a)(iv) and (v) of section 8-3005, and in addition to any requirements specified by federal law, a digital asset depository shall require that any potential customer that is a legal entity other than a natural person provide reasonable evidence that the entity is engaged in a business that is lawful and bona fide in Nebraska, in the host state, if applicable, and under federal law or is likely to open a lawful, bona fide business within a federal Bank Secrecy Act compliant timeframe, as the act existed on January 1, 2023. For purposes of this subsection, reasonable evidence includes business entity filings, articles of incorporation or organization, bylaws, operating agreements, business plans, promotional materials, financing agreements, or other evidence.

Source: Laws 2021, LB649, § 7; Laws 2022, LB707, § 28; Laws 2023, LB92, § 23.

Operative date June 7, 2023.

8-3008 Digital asset depository account; disclosures to customer; requirements.

The terms and conditions of a customer's digital asset depository account at a digital asset depository shall be disclosed at the time the customer contracts for a digital asset business service. Such disclosure shall be full and complete, contain no material misrepresentations, be in readily understandable language, and shall include, as appropriate and to the extent applicable:

(1) A schedule of fees and charges the digital asset depository may assess, the manner by which fees and charges will be calculated if they are not set in advance and disclosed, and the timing of the fees and charges;

(2) A statement that the customer's digital asset depository account is not protected by the Federal Deposit Insurance Corporation;

(3) A statement whether there is support for forked networks of each digital asset;

(4) A statement that investment in digital assets is volatile and subject to market loss;

- (5) A statement that investment in digital assets may result in total loss of value;
- (6) A statement that legal, legislative, and regulatory changes may impact the value of digital assets;
- (7) A statement that customers should perform research before investing in digital assets;
- (8) A statement that transfers of digital assets are irrevocable, if applicable;
- (9) A statement as to how liability for an unauthorized, mistaken, or accidental transfer shall be apportioned;
- (10) A statement that digital assets are not legal tender in any jurisdiction;
- (11) A statement that digital assets may be subject to cyber theft or theft and become unrecoverable;
- (12) A statement about who maintains control, ownership, and access to any private key related to a digital assets customer's digital asset account; and
- (13) A statement that losing private key information may result in permanent total loss of access to digital assets.

Source: Laws 2021, LB649, § 8; Laws 2023, LB92, § 24.
Operative date June 7, 2023.

8-3011 Digital asset depository; notice and statement regarding insurance and risk; customer; acknowledgment.

(1) With respect to all digital asset business activities, a digital asset depository shall display and include in all advertising, in all marketing materials, on any Internet website or mobile application it maintains, and at each window or place where it accepts digital asset deposits, (a) a notice conspicuously stating that digital asset deposits and digital asset accounts are not insured by the Federal Deposit Insurance Corporation, if applicable, and (b) the following conspicuous statement: Holdings of digital assets are speculative and involve a substantial degree of risk, including the risk of complete loss. There is no assurance that any digital asset will be viable, liquid, or solvent. Nothing in this communication is intended to imply that any digital asset held in custody by a digital asset depository is low-risk or risk-free. Digital assets held in custody are not guaranteed by a digital asset depository and are not insured by the Federal Deposit Insurance Corporation.

(2) Upon opening a digital asset depository account, a digital asset depository shall require each customer to execute a statement acknowledging that all digital asset deposits at the digital asset depository are not insured by the Federal Deposit Insurance Corporation. The digital asset depository shall permanently retain this acknowledgment, whether in electronic form or as a signature card.

Source: Laws 2021, LB649, § 11; Laws 2023, LB92, § 25.
Operative date June 7, 2023.

8-3012 Digital asset depository institution; formation; articles of incorporation; contents; filing requirements; capital requirements; bank holding company; powers.

(1) Except as otherwise provided by subsection (5) of this section, five or more adult persons, including at least one Nebraska resident, may form a

digital asset depository institution. The incorporators shall subscribe the articles of incorporation and transmit them and the bylaws of the digital asset depository to the director as part of an application for a charter under section 8-3015.

(2) The articles of incorporation shall include the following information:

- (a) The corporate name;
- (b) The object for which the corporation is organized;
- (c) The term of its existence, which may be perpetual;
- (d) The place in Nebraska where its main office shall be physically located and its operations conducted;
- (e) The amount of capital stock and the number of shares;
- (f) The name and residence of each shareholder subscribing to more than ten percent of the stock and the number of shares owned by that shareholder;
- (g) The number of directors and the names of those who shall manage the affairs of the corporation for the first year; and
- (h) A statement that the articles of incorporation are made to enable the incorporators to avail themselves of the advantages of the laws of the state.

(3) Copies of all amended articles of incorporation and bylaws shall be filed in the same manner as the original articles of incorporation and bylaws.

(4) The incorporators shall solicit capital prior to filing an application for a charter with the director, consistent with section 8-3013. In the event an application for a charter is not filed or is denied by the director, all capital shall be promptly returned without loss.

(5) Subject to federal and state law, a bank holding company may apply to hold a digital asset depository institution.

Source: Laws 2021, LB649, § 12; Laws 2023, LB92, § 26.
Operative date June 7, 2023.

8-3013 Digital asset depository institution; capital and surplus requirements.

(1) The capital stock of each digital asset depository institution chartered under the Nebraska Financial Innovation Act shall be subscribed for as paid-up stock. No digital asset depository institution shall be chartered with capital stock of less than ten million dollars.

(2) No digital asset depository institution shall commence business until the full amount of its authorized capital is subscribed and all capital stock is fully paid in. No digital asset depository institution may be chartered without a paid-up surplus fund of at least three years of estimated operating expenses in the amount disclosed pursuant to subsection (2) of section 8-3015 or in another amount required by the director.

(3) A digital asset depository institution may acquire additional capital prior to the granting of a charter and shall report this capital as an amendment to its charter application.

Source: Laws 2021, LB649, § 13; Laws 2023, LB92, § 27.
Operative date June 7, 2023.

8-3014 Financial institution; digital asset depository department; charter amendment; director; powers and duties.

(1) Any financial institution, having adopted or amended its articles of incorporation to authorize the conduct of a digital asset depository business may be further chartered by the director to transact a digital asset depository business in a digital asset depository department in connection with such financial institution.

(2) The director has the authority to issue to financial institutions amendments to their charters to transact a digital asset depository business, has general supervision and control over such digital asset depository departments of financial institutions, and may require the injection of additional capital.

(3) The director, before granting to any financial institution the right to operate a digital asset depository department, shall require such financial institution to make an application for amendment of its charter, setting forth such information as the director may require.

(4) A digital asset depository department of a financial institution when chartered under subsection (1) of this section shall be separate and apart from every other department of the financial institution and shall have all the powers, duties, and obligations of a digital asset depository institution as set forth in the Nebraska Financial Innovation Act.

(5) Any financial institution authorized to transact a digital asset depository business in a digital asset depository department pursuant to subsection (1) of this section may conduct such digital asset depository business at the office of any financial institution which is a subsidiary of the same bank holding company as the authorized financial institution.

(6) A financial institution may deposit or have on deposit funds of an account controlled by the financial institution's digital asset depository department unless prohibited by applicable law.

Source: Laws 2021, LB649, § 14; Laws 2023, LB92, § 28.
Operative date June 7, 2023.

8-3015 Digital asset depository; act as; charter to operate; required; application; fee.

(1) No corporation shall act as a digital asset depository without first obtaining a charter to operate from the director under the Nebraska Financial Innovation Act.

(2) The incorporators under section 8-3012 shall apply to the director for a charter. The application shall contain the digital asset depository institution's articles of incorporation, bylaws, a detailed business plan, a comprehensive estimate of operating expenses for the first three years of operation, a complete proposal for compliance with the provisions of the Nebraska Financial Innovation Act, evidence of the capital and surplus required under section 8-3013, and any investors or owners holding ten percent or more equity in the digital asset depository institution. The director may prescribe the form of application.

(3) A financial institution may apply to the director for a charter to operate a digital asset depository business as a department. The application shall contain a detailed business plan, a comprehensive estimate of operating expenses for the first three years of operation, and a complete proposal for compliance with the provisions of the Nebraska Financial Innovation Act. The director may prescribe the form of application.

(4) Each application for a charter shall be accompanied by an application fee of fifty thousand dollars.

Source: Laws 2021, LB649, § 15; Laws 2023, LB92, § 29.
Operative date June 7, 2023.

8-3016 Application for charter; notice; hearing; director; department; powers and duties.

(1) After a substantially complete application for a digital asset depository institution charter or a digital asset depository department charter has been submitted, the director shall notify the applicants in writing within thirty calendar days of any deficiency in the required information or that the application has been accepted for filing. When the director is satisfied that all required information has been furnished, the director shall establish a time and place for a public hearing which shall be conducted not less than sixty days, nor more than one hundred twenty days, after notice from the director to the applicants that the application is in order.

(2) Within thirty days after receipt of notice of the time and place of the public hearing, the department shall cause notice of filing of the application and the hearing to be published at the applicant's expense in a newspaper of general circulation within the county where the proposed digital asset depository is to be located. Publication shall be made at least once a week for three consecutive weeks before the hearing, stating the proposed location of the digital asset depository, the names of the applicants for a charter, the nature of the activities to be conducted by the proposed digital asset depository, and other information required by rule and regulation. The director shall electronically send notice of the hearing to state and national banks, federal savings and loan associations, state and federal credit unions, and other financial institutions in the state, federal agencies, and financial industry trade groups.

Source: Laws 2021, LB649, § 16; Laws 2023, LB92, § 30.
Operative date June 7, 2023.

8-3017 Application for charter; hearing; how conducted.

The hearing required by section 8-3016 shall be conducted under the Administrative Procedure Act and shall comply with the requirements of the act.

Source: Laws 2021, LB649, § 17; Laws 2023, LB92, § 31.
Operative date June 7, 2023.

Cross References

Administrative Procedure Act, see section 84-920.

8-3018 Application for charter; director; investigation and examination.

Upon receiving an application for a charter to become a digital asset depository institution or for a charter to operate a digital asset depository department, the applicable fee, and other information required by the director, the director shall make a careful investigation and examination of the following:

(1) The character, reputation, criminal record, financial standing, and ability of the shareholders owning ten percent or more equity in the applicant;

(2) The character, financial responsibility, criminal background, banking or other financial experience, and business qualifications of those proposed as officers and directors;

(3) Whether the applicant or any of its officers, directors, or shareholders owning ten percent or more equity in the applicant have ever been convicted of any (i) misdemeanor involving any aspect of a digital asset depository business or any business of a similar nature or (ii) felony;

(4) Whether the applicant or any of its officers, directors, or shareholders owning ten percent or more equity in the applicant have ever been permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of a digital asset depository business or any business of a similar nature;

(5) A criminal history record information check of the applicant, its officers, directors, and shareholders owning ten percent or more equity in the applicant. The direct cost of the criminal history record information check shall be paid by the applicant; and

(6) The application for a charter, including the adequacy and plausibility of the business plan of the digital asset depository, the benefits to the customers, and whether the applicant has offered a complete proposal for compliance with the Nebraska Financial Innovation Act.

Source: Laws 2021, LB649, § 18; Laws 2023, LB92, § 32.
Operative date June 7, 2023.

8-3019 Application for charter; decision; criteria and requirements; approval, conditional approval, or denial; how effected.

(1) Within ninety days after receipt of the transcript of the public hearing, the director shall render a decision on the application based on the following criteria and requirements:

(a) Whether the character, reputation, criminal record, financial standing, and ability of the shareholders owning ten percent or more equity in the applicant are sufficient to afford reasonable promise of a successful operation;

(b) That the digital asset depository will be operated by officers of integrity and responsibility;

(c) Whether the character, financial responsibility, criminal background, and banking or other financial experience and business qualifications of those proposed as officers and directors are sufficient to afford reasonable promise of a successful operation;

(d) The adequacy and plausibility of the business plan of the digital asset depository, including the ongoing customer expectations of the digital asset depository as determined by the director;

(e) Compliance by the digital asset depository institution with the capital and surplus requirements of section 8-3013;

(f) Whether the digital asset depository institution is being formed for no other purpose than legitimate objectives authorized by law;

(g) That the name of the proposed digital asset depository institution includes the words “digital asset bank” so that it does not resemble the name of any other financial institution transacting business in the state so as to cause confusion;

(h) That the digital asset depository will be operated in a safe and sound manner;

(i) That the digital asset depository shall help meet the digital financial needs of the communities in which it operates, consistent with safe and sound operations, and shall maintain and update a public file and on any Internet website or mobile application it maintains containing specific information about its efforts to meet community needs, including:

(i) The collection and reporting of data;

(ii) Its policies and procedures for accepting and responding to consumer complaints; and

(iii) Its efforts to assist with financial literacy or personal finance programs to increase knowledge and skills of Nebraska students in areas such as digital assets, budgeting, credit, checking and savings accounts, loans, stocks, and insurance;

(j) Whether the applicants have complied with all provisions of state law and are eligible to apply for membership in the federal reserve system; and

(k) Any other considerations in addition to statutory requirements submitted by the applicant pursuant to operational order, rules and regulations, or request of the department.

(2) The director shall approve an application upon making favorable findings on the criteria set forth in subsection (1) of this section. The director may conditionally approve an application by specifying conditions relating to the criteria or may deny the application. The director shall state findings of fact and conclusions of law as part of such decision and shall issue an order approving, conditionally approving, or denying the application.

Source: Laws 2021, LB649, § 19; Laws 2023, LB92, § 33.
Operative date June 7, 2023.

8-3020 Conditions to commence business; compliance required; failure to commence business; effect.

(1) If an application is approved, a charter shall not be issued and the digital asset depository shall not commence business before satisfaction of all conditions precedent contained in the director's order or conditional order.

(2) If an approved digital asset depository fails to commence business in good faith within twelve months after the issuance of a charter, the charter shall expire. The director, for good cause and upon an application filed prior to the expiration of the twelve-month period, may extend the time within which the digital asset depository may open for business.

Source: Laws 2021, LB649, § 20; Laws 2023, LB92, § 34.
Operative date June 7, 2023.

8-3021 Appeal.

Any decision of the department or director in approving, conditionally approving, or denying a charter for a digital asset depository is appealable in accordance with the Administrative Procedure Act.

Source: Laws 2021, LB649, § 21; Laws 2023, LB92, § 35.
Operative date June 7, 2023.

Cross References

Administrative Procedure Act, see section 84-920.

8-3022 Surety bond; pledge of assets; requirements; treatment.

(1) Except as otherwise provided by subsection (2) of this section, a digital asset depository shall, before transacting any business, pledge or furnish a surety bond to the director to cover costs likely to be incurred by the director in a liquidation or conservatorship of the digital asset depository. The amount of the surety bond or pledge of assets under subsection (2) of this section shall be determined by the director in an amount sufficient to defray the costs of a liquidation or conservatorship.

(2) In lieu of a bond, a digital asset depository may irrevocably pledge specified assets equivalent to a bond under subsection (1) of this section. Any assets pledged to the director under this subsection shall be held in a state or nationally chartered bank, trust company, federal reserve bank, or savings and loan association having a principal or branch office in this state, excluding affiliated institutions. All costs associated with pledging and holding such assets are the responsibility of the digital asset depository.

(3) Assets pledged to the director shall not include money and shall be of the same nature and quality as those required under section 8-210.

(4) The digital asset depository shall have the right, with the approval of the director, to substitute other securities for those deposited and shall be required to do so on written order of the director made for good cause shown. The digital asset depository shall pay the fees prescribed in section 8-602 for pledging and substitution of securities. So long as the digital asset depository so depositing shall continue to be solvent and is not in violation of the Nebraska Financial Innovation Act, such digital asset depository shall be permitted to receive the interest or dividends on such deposit.

(5) Surety bonds shall run to the State of Nebraska and shall be approved under the terms and conditions required under section 8-110.

(6) The director may by order or rules and regulations establish additional investment guidelines or investment options for purposes of the pledge or surety bond required by this section.

(7) In the event of a liquidation or conservatorship of a digital asset depository pursuant to section 8-3027, the director may, without regard to priorities, preferences, or adverse claims, reduce the surety bond or assets pledged under this section to cash as soon as practicable and utilize the cash to defray the costs associated with the liquidation or conservatorship.

(8) Income from assets pledged under subsection (2) of this section shall be paid to the digital asset depository no less than annually, unless a liquidation or conservatorship takes place.

(9) Upon evidence that the amount of the current surety bond or pledged assets is insufficient, the director may require a digital asset depository to increase its surety bond or pledged assets by providing not less than thirty days' written notice to the digital asset depository.

Source: Laws 2021, LB649, § 22; Laws 2023, LB92, § 36.
Operative date June 7, 2023.

8-3023 Reports; director; powers; examination by department; when; assessments and costs; insurance or bond required.

(1) The director may call for reports verified under oath from a digital asset depository at any time as necessary to inform the director of the condition of the digital asset depository. Such reports shall be available to the public.

(2) All reports required of a digital asset depository by the director and all materials relating to examinations of a digital asset depository shall be subject to the provisions of sections 8-103 and 8-108.

(3) Every digital asset depository is subject to examination by the department to determine the condition and resources of a digital asset depository, the mode of managing digital asset depository affairs and conducting business, the actions of officers and directors in the investment and disposition of funds, the safety and prudence of digital asset depository management, compliance with the requirements of the Nebraska Financial Innovation Act, and such other matters as the director may require.

(4) A digital asset depository shall pay an assessment in a sum to be determined by the director in accordance with section 8-601 and approved by the Governor and the costs of any examination or investigation as provided in sections 8-108 and 8-606.

(5) A digital asset depository shall maintain appropriate insurance or a bond covering the operational risks of the digital asset depository, which shall include coverage for directors' and officers' liability, errors and omissions liability, information technology infrastructure and activities liability, and business operations, as determined by the director.

Source: Laws 2021, LB649, § 23; Laws 2023, LB92, § 37.
Operative date June 7, 2023.

8-3025 Charter; suspend or revoke; grounds.

The director may suspend or revoke the charter of a digital asset depository if, after notice and opportunity for a hearing, the director determines that:

(1) The digital asset depository has failed or refused to comply with an order issued under section 8-1,136, 8-2504, or 8-2743;

(2) The application for a charter contained a materially false statement, misrepresentation, or omission; or

(3) An officer, a director, or an agent of the digital asset depository, in connection with an application for a charter, an examination, a report, or other document filed with the director, knowingly made a materially false statement, misrepresentation, or omission to the department, the director, or the duly authorized agent of the department or director.

Source: Laws 2021, LB649, § 25; Laws 2023, LB92, § 38.
Operative date June 7, 2023.

8-3026 Charter; surrendered, suspended, or revoked; effect.

If the charter of a digital asset depository is surrendered, suspended, or revoked, the digital asset depository shall continue to be subject to the provi-

sions of the Nebraska Financial Innovation Act during any liquidation or conservatorship.

Source: Laws 2021, LB649, § 26; Laws 2023, LB92, § 39.
Operative date June 7, 2023.

8-3028 Voluntary dissolution; procedure.

(1) A digital asset depository institution may voluntarily dissolve in accordance with this section. Voluntary dissolution shall be accomplished by either liquidating the digital asset depository institution or reorganizing the digital asset depository institution into an appropriate business entity that does not engage in any activity authorized only for a digital asset depository institution. Upon complete liquidation or completion of the reorganization, the director shall revoke the charter of the digital asset depository institution. Thereafter, the corporation or business entity shall not use the words digital asset depository or digital asset bank in its business name or in connection with its ongoing business.

(2) A digital asset depository institution may dissolve its charter either by liquidation or reorganization. The board of directors shall file an application for dissolution with the director, accompanied by a filing fee established by an order or the rules and regulations of the director. The application shall include a comprehensive plan for dissolution setting forth the proposed disposition of all assets and liabilities in reasonable detail to effect a liquidation or reorganization, and any other plans required by the director. The plan of dissolution shall provide for the discharge or assumption of all of the known and unknown claims and liabilities of the digital asset depository institution. Additionally, the application for dissolution shall include other evidence, certifications, affidavits, documents, or information as the director may require, including demonstration of how assets and liabilities will be disposed, the timetable for effecting disposition of the assets and liabilities, and a proposal of the digital asset depository institution for addressing any claims that are asserted after dissolution has been completed. The director shall examine the application for compliance with this section, the business entity laws applicable to the required type of dissolution, and applicable orders and rules and regulations. The director may conduct a special examination of the digital asset depository institution, consistent with subsection (3) of section 8-3023, for purposes of evaluating the application.

(3) If the director finds that the application is incomplete, the director shall return it for completion not later than sixty days after it is filed. If the application is found to be complete by the director, the director shall approve or deny the application not later than thirty days after it is filed. If the director approves the application, the digital asset depository institution may proceed with the dissolution pursuant to the plan outlined in the application, subject to any further conditions the director may prescribe. If the digital asset depository institution subsequently determines that the plan of dissolution needs to be amended to complete the dissolution, it shall file an amended plan with the director and obtain approval to proceed under the amended plan. If the director does not approve the application or amended plan, the digital asset depository institution may appeal the decision to the director pursuant to the Administrative Procedure Act.

(4) Upon completion of all actions required under the plan of dissolution and satisfaction of all conditions prescribed by the director, the digital asset depository institution shall submit a written report of its actions to the director. The report shall contain a certification made under oath that the report is true and correct. Following receipt of the report, the director, no later than sixty days after the filing of the report, shall examine the digital asset depository institution to determine whether the director is satisfied that all required actions have been taken in accordance with the plan of dissolution and any conditions prescribed by the director. If all requirements and conditions have been met, the director shall, within thirty days of the examination, notify the digital asset depository institution in writing that the dissolution has been completed and issue an order of dissolution.

(5) Upon receiving an order of dissolution, the digital asset depository institution shall surrender its charter to the director. The digital asset depository institution shall then file articles of dissolution and other documents required by sections 21-2,184 to 21-2,201 for a corporation with the Secretary of State. In the case of reorganization, the digital asset depository institution shall file the documents required by the Secretary of State to finalize the reorganization.

(6) If the director determines that all required actions under the plan for dissolution, or as otherwise required by the director, have not been completed, the director shall notify the digital asset depository institution, not later than thirty days after this determination, in writing, of what additional actions shall be taken in order for the institution to be eligible for a certificate of dissolution. The director shall establish a reasonable deadline of up to thirty days for the submission of evidence that additional actions have been taken and the director may extend any deadline upon good cause. If the digital asset depository institution fails to file a supplemental report showing that the additional actions have been taken before the deadline, or submits a report that is found not to be satisfactory by the director, the director shall notify the digital asset depository institution in writing that its voluntary dissolution is not approved, and the institution may appeal the decision to the director pursuant to the Administrative Procedure Act.

(7) A financial institution operating a digital asset depository department may, upon adoption of a resolution by its board of directors, and upon compliance with the provisions of this section, insofar as determined by the director by order or rule and regulation, surrender its charter for a digital asset depository department for cancellation to the department.

Source: Laws 2021, LB649, § 28; Laws 2023, LB92, § 40.
Operative date June 7, 2023.

Cross References

Administrative Procedure Act, see section 84-920.

8-3030 Digital asset depository; officer, director, employee, or agent; removal; grounds.

Each officer, director, employee, or agent of a digital asset depository, following written notice from the director, is subject to removal upon order of the director if such officer, director, employee, or agent knowingly, willfully, or negligently:

(1) Fails to perform any duty required by the Nebraska Financial Innovation Act or other applicable law;

- (2) Fails to conform to any order or rules and regulations of the director; or
- (3) Endangers the interest of a customer or the safety and soundness of the digital asset depository.

Source: Laws 2021, LB649, § 30; Laws 2023, LB92, § 41.
Operative date June 7, 2023.

CHAPTER 9

BINGO AND OTHER GAMBLING

Article.

1. General Provisions. 9-1,101.
2. Bingo. 9-204, 9-204.04.
6. County and City Lotteries. 9-601 to 9-651.01.
8. State Lottery. 9-812, 9-836.01.
11. Nebraska Racetrack Gaming Act. 9-1103 to 9-1110.

ARTICLE 1

GENERAL PROVISIONS

Section

- 9-1,101. Department of Revenue; Charitable Gaming Division; created; duties; Charitable Gaming Operations Fund; created; use; investment; investigators; powers; fees authorized; administration of Nebraska Commission on Problem Gambling.

9-1,101 Department of Revenue; Charitable Gaming Division; created; duties; Charitable Gaming Operations Fund; created; use; investment; investigators; powers; fees authorized; administration of Nebraska Commission on Problem Gambling.

(1) The Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, and section 9-701 shall be administered and enforced by the Charitable Gaming Division of the Department of Revenue, which division is hereby created. The Department of Revenue shall make annual reports to the Governor, Legislature, Auditor of Public Accounts, and Attorney General on all tax revenue received, expenses incurred, and other activities relating to the administration and enforcement of such acts. The report submitted to the Legislature shall be submitted electronically.

(2) The Charitable Gaming Operations Fund is hereby 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.

(3)(a) Forty percent of the taxes collected pursuant to sections 9-239, 9-344, 9-429, and 9-648 shall be available to the Charitable Gaming Division for administering and enforcing the acts listed in subsection (1) of this section and providing administrative support for the Nebraska Commission on Problem Gambling. The remaining sixty percent shall be transferred to the General Fund. Any portion of the forty percent not used by the division in the administration and enforcement of such acts and section shall be distributed as provided in this subsection.

(b) Beginning July 1, 2019, through June 30, 2025, on or before the last day of the last month of each calendar quarter, the State Treasurer shall transfer one hundred thousand dollars from the Charitable Gaming Operations Fund to the Compulsive Gamblers Assistance Fund.

(c) Any money remaining in the Charitable Gaming Operations Fund after the transfer pursuant to subdivision (b) of this subsection not used by the Charitable Gaming Division in its administration and enforcement duties pursuant to this section may be transferred to the General Fund and the Compulsive Gamblers Assistance Fund at the direction of the Legislature.

(4) The Tax Commissioner shall employ investigators who shall be vested with the authority and power of a law enforcement officer to carry out the laws of this state administered by the Tax Commissioner or the Department of Revenue and to enforce sections 28-1101 to 28-1117 relating to possession of a gambling device. For purposes of enforcing sections 28-1101 to 28-1117, the authority of the investigators shall be limited to investigating possession of a gambling device, notifying local law enforcement authorities, and reporting suspected violations to the county attorney for prosecution.

(5) The Charitable Gaming Division may charge a fee for publications and listings it produces. The fee shall not exceed the cost of publication and distribution of such items. The division may also charge a fee for making a copy of any record in its possession equal to the actual cost per page. The division shall remit the fees to the State Treasurer for credit to the Charitable Gaming Operations Fund.

(6) For administrative purposes only, the Nebraska Commission on Problem Gambling shall be located within the Charitable Gaming Division. The division shall provide office space, furniture, equipment, and stationery and other necessary supplies for the commission. Commission staff shall be appointed, supervised, and terminated by the director of the Gamblers Assistance Program pursuant to section 9-1004.

Source: Laws 1986, LB 1027, § 185; Laws 1988, LB 1232, § 1; Laws 1989, LB 767, § 1; Laws 1990, LB 1055, § 3; Laws 1991, LB 427, § 1; Laws 1993, LB 397, § 1; Laws 1994, LB 694, § 1; Laws 1994, LB 1066, § 8; Laws 2000, LB 659, § 1; Laws 2001, LB 541, § 2; Laws 2002, LB 1310, § 2; Laws 2007, LB638, § 1; Laws 2010, LB879, § 1; Laws 2012, LB782, § 11; Laws 2013, LB6, § 8; Laws 2018, LB945, § 9; Laws 2019, LB298, § 13; Laws 2020, LB1009, § 2; Laws 2021, LB384, § 7; Laws 2023, LB818, § 7.

Effective date May 25, 2023.

Cross References

- Nebraska Bingo Act, see section 9-201.
- Nebraska Capital Expansion Act, see section 72-1269.
- 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.
- Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 2

BINGO

- Section 9-204. Bingo, defined.
- 9-204.04. Bingo card monitoring device, defined.

9-204 Bingo, defined.

(1) Bingo shall mean that form of gambling in which:

(a) The winning numbers are determined by random selection from a pool of seventy-five or ninety numbered designators; and

(b) A player marks by physically daubing or covering or, automatically or manually with the aid of a bingo card monitoring device, enters or otherwise conceals those randomly selected numbers which match on a bingo card that the player has purchased or leased only at the time and place of the bingo occasion.

(2) Bingo shall not mean or include:

(a) Any scheme which uses any mechanical gaming device, computer gaming device, electronic gaming device, or video gaming device which has the capability of awarding something of value, free games redeemable for something of value, or tickets or stubs redeemable for something of value;

(b) Any activity which is authorized or regulated under the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, section 9-701, or Chapter 2, article 12; or

(c) Any activity which is prohibited under Chapter 28, article 11.

Source: Laws 1978, LB 351, § 4; Laws 1982, LB 602A, § 1; Laws 1983, LB 259, § 3; R.S.1943, (1983), § 9-127; Laws 1986, LB 1027, § 5; Laws 1991, LB 849, § 44; Laws 1993, LB 138, § 2; Laws 1994, LB 694, § 6; Laws 2003, LB 429, § 3; Laws 2023, LB775, § 2.
Effective date September 2, 2023.

Cross References

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.

9-204.04 Bingo card monitoring device, defined.

Bingo card monitoring device shall mean a technological aid which allows a bingo player to automatically or manually enter bingo numbers as they are announced at a bingo occasion and which enters or otherwise conceals those numbers on bingo cards which are electronically stored in and displayed on the device. A bingo card monitoring device shall not mean or include any device (1) into which currency, coins, or tokens may be inserted or from which currency, coins, tokens, or any receipt for monetary value can be dispensed or (2) which, once provided to a bingo player, is capable of communicating with any other bingo card monitoring device or any other form of electronic device or computer, except that such device may communicate with its host system.

Source: Laws 2003, LB 429, § 5; Laws 2023, LB775, § 3.
Effective date September 2, 2023.

ARTICLE 6

COUNTY AND CITY LOTTERIES

Section	
9-601.	Act, how cited.
9-603.	Definitions, where found.
9-604.02.	Digital-on-premises ticket, defined.

§ 9-601

BINGO AND OTHER GAMBLING

Section

- 9-606. Gross proceeds, defined.
- 9-607. Lottery, defined; manner of play; designation.
- 9-646.01. No extension of credit; accounts and other payment methods, authorized; limitations.
- 9-651. Lottery ticket; requirements.
- 9-651.01. Lottery ticket, keno game; digital-on-premises ticket; purchase and sale; requirements; controls.

9-601 Act, how cited.

Sections 9-601 to 9-653 shall be known and may be cited as the Nebraska County and City Lottery Act.

Source: Laws 1986, LB 1027, § 172; Laws 1989, LB 767, § 47; Laws 1991, LB 427, § 54; Laws 1991, LB 795, § 4; Laws 1993, LB 563, § 2; Laws 2002, LB 545, § 44; Laws 2011, LB490, § 1; Laws 2014, LB259, § 1; Laws 2023, LB775, § 4.
Effective date September 2, 2023.

9-603 Definitions, where found.

For purposes of the Nebraska County and City Lottery Act, the definitions found in sections 9-603.02 to 9-618 shall be used.

Source: Laws 1986, LB 1027, § 174; Laws 1989, LB 767, § 48; Laws 2002, LB 545, § 45; Laws 2003, LB 3, § 4; Laws 2011, LB490, § 2; Laws 2014, LB259, § 2; Laws 2023, LB775, § 5.
Effective date September 2, 2023.

9-604.02 Digital-on-premises ticket, defined.

Digital-on-premises ticket means a digital ticket purchased in person on a mobile or other electronic device verified to be present at the location of the lottery operator or an authorized sales outlet location in accordance with subdivision (3)(b) of section 9-651.01.

Source: Laws 2023, LB775, § 6.
Effective date September 2, 2023.

9-606 Gross proceeds, defined.

Gross proceeds shall mean the total aggregate receipts received from the conduct of any lottery conducted by any county, city, or village without any reduction for prizes, discounts, taxes, or expenses and shall include receipts from admission costs, any consideration necessary for participation, and the value of any free tickets, games, or plays used, except that gross proceeds shall not include any admission costs collected at any location where the lottery is also available to the public free of any admission charge.

Source: Laws 1986, LB 1027, § 177; Laws 2023, LB775, § 7.
Effective date September 2, 2023.

9-607 Lottery, defined; manner of play; designation.

- (1) Lottery shall mean a gambling scheme in which:
 - (a) The players pay or agree to pay something of value for an opportunity to win;
 - (b) Winning opportunities are represented by tickets;

(c) Winners are solely determined by one of the following two methods:

(i) By a random drawing of tickets differentiated by sequential enumeration from a receptacle by hand whereby each ticket has an equal chance of being chosen in the drawing; or

(ii) By use of a game known as keno in which a player selects up to twenty numbers from a total of eighty numbers on a ticket and a computer, other electronic selection device, or electrically operated blower machine which is not player-activated randomly selects up to twenty numbers from the same pool of eighty numbers and the winning players are determined by the correct matching of the numbers on the ticket selected by the players with the numbers randomly selected by the computer, other electronic selection device, or electrically operated blower machine, except that (A) no keno game shall permit or require player activation of lottery equipment and (B) the random selection of numbers by the computer, other electronic selection device, or electrically operated blower machine shall not occur within five minutes of the completion of the previous selection of random numbers;

(d) The holders of the winning tickets are to receive cash or prizes redeemable for cash. Selection of a winner or winners shall be predicated solely on chance; and

(e) Tickets are issued either (i) on paper or (ii) with the consent of the governing body of the county, city, or village conducting the lottery, digitally to a mobile or other device which, at the time of purchase, is verified to be present at the location of the lottery operator or an authorized sales outlet location as provided in subdivision (3)(b) of section 9-651.01.

(2) Lottery shall not include:

(a) Any gambling scheme which uses any mechanical gaming device, computer gaming device, electronic gaming device, or video gaming device which has the capability of awarding something of value, free games redeemable for something of value, or tickets or stubs redeemable for something of value;

(b) Any activity authorized or regulated under the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, section 9-701, or Chapter 2, article 12; or

(c) Any activity prohibited under Chapter 28, article 11.

(3) Notwithstanding the requirement in subdivision (1)(c)(ii) of this section that a player select up to twenty numbers, a player may select more than twenty numbers on a ticket when a top or bottom, left or right, edge, or way ticket is played. For a top or bottom ticket, the player shall select all numbers from one through forty or all numbers from forty-one through eighty. For a left or right ticket, the player shall select all numbers ending in one through five or all numbers ending in six through zero. For an edge ticket, the player shall select all of the numbers comprising the outside edge of the ticket. For a way ticket, the player shall select a combination of groups of numbers in multiple ways on a single ticket.

(4) A county, city, or village conducting a keno lottery shall designate the method of winning number selection to be used in the lottery and submit such designation in writing to the department prior to conducting a keno lottery. Only those methods of winning number selection described in subdivision (1)(c)(ii) of this section shall be permitted, and the method of winning number

selection initially utilized may only be changed once during that business day as set forth in the designation. A county, city, or village shall not change the method or methods of winning number selection filed with the department or allow it to be changed once such initial designation has been made unless (a) otherwise authorized in writing by the department based upon a written request from the county, city, or village or (b) an emergency arises in which case a ball draw method of number selection would be switched to a number selection by a random number generator. An emergency situation shall be reported by the county, city, or village to the department within twenty-four hours of its occurrence.

Source: Laws 1986, LB 1027, § 178; Laws 1989, LB 767, § 53; Laws 1991, LB 795, § 7; Laws 1991, LB 849, § 56; Laws 1993, LB 563, § 4; Laws 1993, LB 138, § 14; Laws 2011, LB490, § 4; Laws 2023, LB775, § 8.
Effective date September 2, 2023.

Cross References

Nebraska Bingo Act, see section 9-201.
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.

9-646.01 No extension of credit; accounts and other payment methods, authorized; limitations.

(1)(a) No person or licensee, or any employee or agent thereof, accepting wagers on a lottery conducted pursuant to the Nebraska County and City Lottery Act shall extend credit from the gross proceeds of a lottery to participants in the lottery for the purchase of lottery tickets. No person shall purchase or be allowed to purchase any lottery ticket or make or be allowed to make any wager pursuant to the act unless he or she pays for such ticket or wager with cash, a debit card, the cash balance of a payment application, a transfer from a deposit account at a financial institution, or an account established in the name of the player with the lottery operator and funded as provided in subsection (2) of this section. For purposes of this section, cash shall mean United States currency having the same face value as the price of the ticket or wager. A credit card shall not be accepted for payment for any wager on keno.

(b) A participant shall not use a debit card to purchase more than two hundred dollars of keno wagers from a lottery operator in a single calendar day.

(2) A lottery operator may allow participants to create an account to be used for lottery play. Such accounts may only be funded with cash, a debit card, the cash balance of a payment application, or a transfer from a deposit account at a financial institution. The lottery operator may also allow a participant to deposit prize money won from the lottery and refunds from the lottery into a lottery play account. A participant shall not deposit funds into any such account from a debit card transaction if the total amount of funds from all such debit card transactions in that calendar day would exceed two hundred dollars.

Source: Laws 1993, LB 563, § 18; Laws 1997, LB 248, § 33; Laws 2023, LB775, § 9.
Effective date September 2, 2023.

9-651 Lottery ticket; requirements.

Each county, city, or village conducting a lottery shall have its name clearly associated with each ticket used in the lottery. No such ticket shall be sold unless such name is clearly identified.

Source: Laws 1986, LB 1027, § 182; R.S.1943, (1987), § 9-611; Laws 1989, LB 767, § 90; Laws 2023, LB775, § 10.
Effective date September 2, 2023.

9-651.01 Lottery ticket, keno game; digital-on-premises ticket; purchase and sale; requirements; controls.

(1) Any purchase of a ticket for a keno game shall be made in person at the location of the lottery operator or an authorized sales outlet location.

(2) The lottery operator shall file with the department the address of each location where digital-on-premises tickets are sold. The lottery operator shall use reasonable safeguards approved by the department to ensure that digital-on-premises tickets are only accessible to individuals nineteen years of age or older.

(3) The lottery operator shall submit controls, for approval by the department, that include the following at the location of the lottery operator or the locations of its associated authorized sales outlets at which digital-on-premises tickets are sold:

(a) Any specific procedure and any technology partner used to fulfill the requirements set forth by the department;

(b) Any location detection procedure to reasonably detect and dynamically monitor the location of a player attempting to purchase a digital-on-premises ticket for a keno game. The location procedures shall be designed so that a player outside the permitted boundary is rejected and the player is notified. The permitted boundary shall be established in such a manner that access is not regularly available away from the property on which the licensed premises is situated and such boundary is as closely matching to the actual or legal boundaries of the licensed premises as reasonably possible;

(c) Any other specific controls as designated by the department;

(d) A process to prominently display and easily impose any limitation parameters relating to the purchase of a digital-on-premises ticket for a keno game; and

(e) An easy and obvious method for a player to make a complaint and to enable the player to notify the department if such complaint has not been or cannot be addressed by the lottery operator.

(4) The department shall approve or deny the controls within thirty days after submission. If denied, the department shall provide the reasons for denial and allow the lottery operator to resubmit revised controls.

(5) The department may adopt and promulgate rules and regulations relating to digital-on-premises tickets. Such rules and regulations shall be adopted and promulgated no later than January 1, 2024.

Source: Laws 2023, LB775, § 11.
Effective date September 2, 2023.

ARTICLE 8
STATE LOTTERY

Section

- 9-812. State Lottery Operation Trust Fund; State Lottery Operation Cash Fund; State Lottery Prize Trust Fund; created; transfers; investment; unclaimed prize money; use.
- 9-836.01. Division; sale of tangible personal property; distribution of profits.

9-812 State Lottery Operation Trust Fund; State Lottery Operation Cash Fund; State Lottery Prize Trust Fund; created; transfers; investment; unclaimed prize money; use.

(1) All money received from the operation of lottery games conducted pursuant to the State Lottery Act in Nebraska shall be credited to the State Lottery Operation Trust Fund, which fund is hereby created. All payments of the costs of establishing and maintaining the lottery games shall be made from the State Lottery Operation Cash Fund. In accordance with legislative appropriations, money for payments for expenses of the division shall be transferred from the State Lottery Operation Trust Fund to the State Lottery Operation Cash Fund, which fund is hereby created. All money necessary for the payment of lottery prizes shall be transferred from the State Lottery Operation Trust Fund to the State Lottery Prize Trust Fund, which fund is hereby created. The amount used for the payment of lottery prizes shall not be less than forty percent of the dollar amount of the lottery tickets which have been sold.

(2) A portion of the dollar amount of the lottery tickets which have been sold on an annualized basis shall be transferred from the State Lottery Operation Trust Fund as provided in subsection (3) of this section. The dollar amount transferred pursuant to this subsection shall equal the greater of (a) the dollar amount transferred in fiscal year 2002-03 or (b) any amount which constitutes at least twenty-two percent and no more than twenty-five percent of the dollar amount of the lottery tickets which have been sold on an annualized basis. To the extent that funds are available, the Tax Commissioner and director may authorize a transfer exceeding twenty-five percent of the dollar amount of the lottery tickets sold on an annualized basis.

(3) Of the money available to be transferred as provided in this subsection:

(a) The first five hundred thousand dollars shall be transferred to the Compulsive Gamblers Assistance Fund to be used as provided in section 9-1006;

(b) Forty-four and one-half percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be used for education and transferred pursuant to section 79-3501;

(c) Forty-four and one-half percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska Environmental Trust Fund to be used as provided in the Nebraska Environmental Trust Act;

(d) Ten percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska State Fair Board if the most populous city within the county in which the fair is located provides matching

funds equivalent to ten percent of the funds available for transfer. Such matching funds may be obtained from the city and any other private or public entity, except that no portion of such matching funds shall be provided by the state. If the Nebraska State Fair ceases operations, ten percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the General Fund; and

(e) One percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Compulsive Gamblers Assistance Fund to be used as provided in section 9-1006.

(4) Any money in the State Lottery Operation Trust Fund, the State Lottery Operation Cash Fund, or the State Lottery Prize Trust 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) Unclaimed prize money on a winning lottery ticket shall be retained for a period of time prescribed by rules and regulations. If no claim is made within such period, the prize money shall be used at the discretion of the Tax Commissioner for any of the purposes prescribed in this section.

Source: Laws 1991, LB 849, § 12; Laws 1992, LB 1257, § 57; Laws 1993, LB 138, § 28; Laws 1993, LB 563, § 24; Laws 1994, LB 647, § 5; Laws 1994, LB 694, § 119; Laws 1994, LB 1066, § 11; Laws 1995, LB 275, § 1; Laws 1995, LB 860, § 1; Laws 1996, LB 900, § 1015; Laws 1996, LB 1069, § 1; Laws 1997, LB 118, § 1; Laws 1997, LB 347, § 1; Laws 1997, LB 710, § 1; Laws 1997, LB 865, § 1; Laws 1998, LB 924, § 16; Laws 1998, LB 1228, § 7; Laws 1998, LB 1229, § 1; Laws 1999, LB 386, § 1; Laws 2000, LB 659, § 2; Laws 2000, LB 1243, § 1; Laws 2001, LB 797, § 1; Laws 2001, LB 833, § 1; Laws 2001, Spec. Sess., LB 3, § 1; Laws 2002, LB 1105, § 418; Laws 2002, LB 1310, § 3; Laws 2002, Second Spec. Sess., LB 1, § 1; Laws 2003, LB 367, § 1; Laws 2003, LB 574, § 21; Laws 2004, LB 1083, § 83; Laws 2004, LB 1091, § 1; Laws 2006, LB 1208, § 1; Laws 2007, LB638, § 16; Laws 2009, LB286, § 4; Laws 2009, LB545, § 1; Laws 2009, LB547, § 1; Laws 2009, First Spec. Sess., LB2, § 1; Laws 2010, LB956, § 1; Laws 2011, LB333, § 1; Laws 2011, LB575, § 7; Laws 2011, LB637, § 22; Laws 2012, LB1079, § 9; Laws 2013, LB6, § 9; Laws 2013, LB366, § 8; Laws 2013, LB495, § 1; Laws 2013, LB497, § 1; Laws 2014, LB967, § 2; Laws 2015, LB519, § 1; Laws 2016, LB930, § 1; Laws 2016, LB1067, § 1; Laws 2017, LB512, § 5; Laws 2021, LB528, § 2; Laws 2023, LB705, § 52.
Operative date July 1, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska Environmental Trust Act, see section 81-15,167.

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

9-836.01 Division; sale of tangible personal property; distribution of profits.

The division may endorse and sell for profit tangible personal property related to the lottery. Any money received as profit by the division pursuant to

this section shall be remitted to the State Treasurer for credit to the State Lottery Operation Trust Fund to be distributed pursuant to the requirements of section 9-812.

Source: Laws 1994, LB 694, § 118; Laws 1998, LB 924, § 17; Laws 2003, LB 574, § 22; Laws 2010, LB956, § 2; Laws 2013, LB497, § 2; Laws 2021, LB528, § 3; Laws 2023, LB705, § 53.
Operative date July 1, 2023.

ARTICLE 11

NEBRASKA RACETRACK GAMING ACT

Section

- 9-1103. Terms, defined.
- 9-1106. Commission; powers and duties.
- 9-1110. Sports wagering.

9-1103 Terms, defined.

For purposes of the Nebraska Racetrack Gaming Act:

- (1) Authorized gaming operator means a person or entity licensed pursuant to the act to operate games of chance within a licensed racetrack enclosure;
- (2) Authorized gaming operator license means a license to operate games of chance as an authorized gaming operator at a licensed racetrack enclosure;
- (3)(a) Except as otherwise provided in subdivision (b) of this subdivision, authorized sporting event means a professional sporting event, a collegiate sporting event, an international sporting event, a professional motor race event, a professional sports draft, an individual sports award, an electronic sport, or a simulated game; and
 - (b) Authorized sporting event does not include an instate collegiate sporting event in which an instate collegiate or university team is a participant, a parimutuel wager, a fantasy sports contest, a minor league sporting event, a sporting event at the high school level or below regardless of the age of any individual participant, or any sporting event excluded by the commission;
- (4) Collegiate sporting event means an athletic event or competition of an intercollegiate sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association for the promotion or regulation of collegiate athletics;
- (5) Commission means the State Racing and Gaming Commission;
- (6) Designated sports wagering area means an area, as approved by the commission, in which sports wagering is conducted;
- (7) Game of chance means any game which has the elements of chance, prize, and consideration, including any wager on a slot machine, table game, counter game, or card game, a keno lottery conducted in accordance with the Nebraska County and City Lottery Act, or sports wagering. Game of chance does not include any game the operation of which is prohibited at a casino by federal law;
- (8) Gaming device means an electronic, mechanical, or other device which plays a game of chance when activated by a player using currency, a token, or other item of value;

(9) International sporting event means an international team or individual sporting event governed by an international sports federation or sports governing body, including sporting events governed by the International Olympic Committee and the International Federation of Association Football;

(10) Licensed racetrack enclosure means all real property licensed and utilized for the conduct of a race meeting, including the racetrack and any grandstand, concession stand, office, barn, barn area, employee housing facility, parking lot, and additional area designated by the commission in accordance with the Constitution of Nebraska and applicable Nebraska law;

(11) Limited gaming device means an electronic gaming device which (a) offers games of chance, (b) does not dispense currency, tokens, or other items of value, and (c) does not have a cash winnings hopper, mechanical or simulated spinning reel, or side handle;

(12) Prohibited participant means any individual whose participation may undermine the integrity of the wagering or the sporting event or any person who is prohibited from sports wagering for other good cause shown as determined by the commission, including, but not limited to: (a) Any individual placing a wager as an agent or proxy; (b) any person who is an athlete, a coach, a referee, or a player in any sporting event overseen by the sports governing body of such person based on publicly available information; (c) a person who holds a paid position of authority or influence sufficient to exert influence over the participants in a sporting event, including, but not limited to, any coach, manager, handler, or athletic trainer, or a person with access to certain types of exclusive information, on any sporting event overseen by the sports governing body of such person based on publicly available information; or (d) a person identified as prohibited from sports wagering by any list provided by a sports governing body to the commission;

(13) Racing license means a license issued for a licensed racetrack enclosure by the commission; and

(14) Sports wagering means the acceptance of wagers on an authorized sporting event by any system of wagering as authorized by the commission. Sports wagering does not include (a) placing a wager on the performance or nonperformance of any individual athlete participating in a single game or match of a collegiate sporting event in which a collegiate team from this state is participating, (b) placing an in-game wager on any game or match of a collegiate sporting event in which a collegiate team from this state is participating, (c) placing a wager on the performance or nonperformance of any individual athlete under eighteen years of age participating in a professional or international sporting event, or (d) placing a wager on the performance of athletes in an individual sporting event excluded by the commission.

Source: Initiative Law 2020, No. 430, § 3; Laws 2021, LB561, § 28; Laws 2023, LB775, § 12.

Effective date September 2, 2023.

Cross References

Nebraska County and City Lottery Act, see section 9-601.

9-1106 Commission; powers and duties.

The commission shall:

(1) License and regulate authorized gaming operators for the operation of all games of chance authorized pursuant to the Nebraska Racetrack Gaming Act, including adopting, promulgating, and enforcing rules and regulations governing such authorized gaming operators consistent with the act;

(2) Regulate the operation of games of chance in order to prevent and eliminate corrupt practices and fraudulent behavior, and thereby promote integrity, security, and honest administration in, and accurate accounting of, the operation of games of chance which are subject to the act;

(3) Establish criteria to license applicants for authorized gaming operator licenses and all other types of gaming licenses for other positions and functions incident to the operation of games of chance, including adopting, promulgating, and enforcing rules, regulations, and eligibility standards for such authorized gaming operator licenses, gaming licenses, and positions and functions incident to the operation of games of chance;

(4) Charge fees for applications for licenses and for the issuance of authorized gaming operator licenses and all other types of gaming licenses to successful applicants which shall be payable to the commission;

(5) Charge fees to authorized gaming operators in an amount necessary to offset the cost of oversight and regulatory services to be provided which shall be payable to the commission;

(6) Impose a one-time authorized gaming operator license fee of five million dollars on each authorized gaming operator for each licensed racetrack enclosure payable to the commission. The license fee may be paid over a period of five years with one million dollars due at the time the license is issued;

(7) Grant, deny, revoke, and suspend authorized gaming operator licenses and all other types of gaming licenses based upon reasonable criteria and procedures established by the commission to facilitate the integrity, productivity, and lawful conduct of gaming within the state;

(8) Grant or deny for cause applications for authorized gaming operator licenses of not less than twenty years in duration, subject to an annual review by the commission and receipt by the commission of a fifty-thousand-dollar annual review fee, with no more than one such authorized gaming operator license granted for any licensed racetrack enclosure within the state;

(9) Conduct background investigations of applicants for authorized gaming operator licenses and all other types of gaming licenses;

(10) Adopt and promulgate rules and regulations for the standards of manufacture of gaming equipment;

(11) Inspect the operation of any authorized gaming operator conducting games of chance for the purpose of certifying the revenue thereof and receiving complaints from the public;

(12) Issue subpoenas for the attendance of witnesses or the production of any records, books, memoranda, documents, or other papers or things at or prior to any hearing as is necessary to enable the commission to effectively discharge its duties;

(13) Administer oaths or affirmations as necessary to carry out the act;

(14) Have the authority to impose, subject to judicial review, appropriate administrative fines and penalties for each violation of the act or any rules and

regulations adopted and promulgated pursuant to the act in an amount not to exceed:

(a) For any licensed racetrack enclosure with an authorized gaming operator operating games of chance for one year or less, fifty thousand dollars per violation; or

(b) For any licensed racetrack enclosure with an authorized gaming operator operating games of chance for more than one year, three times the highest daily amount of gross receipts derived from wagering on games of chance during the twelve months preceding the violation at such licensed racetrack enclosure gaming facility per violation;

(15) Collect and remit administrative fines and penalties collected under this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska;

(16) Adopt and promulgate rules and regulations for any gaming taxes assessed to authorized gaming operators;

(17) Collect and account for any gaming taxes assessed to authorized gaming operators and remit such taxes to the State Treasurer or county treasurer as required by Nebraska law;

(18) Promote treatment of gaming-related behavioral disorders;

(19) Establish procedures for the governance of the commission;

(20) Acquire necessary offices, facilities, counsel, and staff;

(21) Establish procedures for an applicant for a staff position to disclose conflicts of interest as part of the application for employment;

(22) Establish a process to allow a person to be voluntarily excluded from wagering in any game of chance under the act in accordance with section 9-1118;

(23) Remit all license and application fees collected under the Nebraska Racetrack Gaming Act to the State Treasurer for credit to the Racing and Gaming Commission's Racetrack Gaming Fund;

(24) Conduct or cause to be conducted a statewide horseracing market analysis to study the racing market as it currently exists across the state and within the locations in Nebraska of the racetracks in Adams, Dakota, Douglas, Hall, Lancaster, and Platte counties as of the date of the market analysis. Such market analysis shall be completed as soon as practicable but not later than January 1, 2025, and every five years thereafter and shall be submitted electronically to the General Affairs Committee of the Legislature and to the Governor. Such market analysis shall examine the market potential and make recommendations involving:

(a) The number of live racing days per track, number of races run, and number of horses that should be entered per race;

(b) The number of Nebraska-bred horses available in the market for running races, including foals dropped in the state for the past three years at the time of the market analysis;

(c) The circuit scheduled in the state and if any overlapping dates would be beneficial to the circuit and market as a whole;

(d) The total number of horses available for the total annual schedule, with separate analysis for thoroughbred races and quarterhorse races;

- (e) The purse money available per race and per track;
 - (f) The strength of the potential and ongoing simulcast market;
 - (g) The staffing patterns and problems that exist at each track, including unfilled positions;
 - (h) The positive and negative effects, including financial, on each existing racetrack at the time of the market analysis in the event the commission approves a new racetrack application;
 - (i) The potential to attract new owners and horses from other states;
 - (j) The market potential for expansion at each licensed racetrack enclosure to the live race meet days and the number of live horseraces required by section 2-1205, and the room for expansion, if any, for additional licensed racetrack enclosures into the market in Nebraska and the locations most suitable for such expansion; and
 - (k) Any other data and analysis required by the commission;
- (25) Conduct or cause to be conducted a statewide casino gaming market analysis study across the state and within each location of a racetrack in Adams, Dakota, Douglas, Hall, Lancaster, and Platte counties. Such market analysis study shall be completed as soon as practicable but not later than January 1, 2025, and every five years thereafter and shall be submitted electronically to the General Affairs Committee of the Legislature and to the Governor. The market analysis study shall include:
- (a) A comprehensive assessment of the potential casino gaming market conditions;
 - (b) An evaluation of the effects on the Nebraska market from competitive casino gaming locations outside of the state;
 - (c) Information identifying underperforming or underserved markets within Nebraska;
 - (d) A comprehensive study of potential casino gaming revenue in Nebraska; and
 - (e) Any other data and analysis required by the commission;
- (26) Conduct or cause to be conducted a statewide socioeconomic-impact study of horseracing and casino gaming across the state and at each licensed racetrack enclosure and gaming facility in Adams, Dakota, Douglas, Hall, Lancaster, and Platte counties. Such socioeconomic-impact study shall be completed as soon as practicable but not later than January 1, 2025, and shall be submitted electronically to the General Affairs Committee of the Legislature and to the Governor. The study shall include:
- (a) Information on financial and societal impacts of horseracing and casino gaming, including crime and local businesses;
 - (b) An analysis of problem gambling within the state; and
 - (c) A comparison of the economy of counties which contain a licensed racetrack enclosure operating games of chance and counties which do not contain such a licensed racetrack enclosure as of the date of the study, which comparison shall include:
 - (i) The population of such counties;
 - (ii) Jobs created by each licensed racetrack enclosure operating games of chance in such counties;

- (iii) Unemployment rates in such counties;
- (iv) Information on family and household income in such counties;
- (v) Retail sales in such counties;
- (vi) Property values in such counties;
- (vii) An analysis of the impact on community services, including police protection expenditures, fire protection expenditures, road, bridge, and sidewalk expenditures, and capital project expenditures in such counties;
- (viii) Impact on community health in such counties;
- (ix) Divorce rates in such counties;
- (x) Information on available education and education levels in such counties;
- (xi) Life expectancy in such counties;
- (xii) Homelessness in such counties; and
- (xiii) Any other data and analysis required by the commission;

(27) Approve or deny an application for any licensed racetrack enclosure which is not in existence or operational as of April 20, 2022, or any licensed racetrack enclosure in existence and operational as of November 1, 2020, that applies to move such licensed racetrack enclosure pursuant to section 2-1205, on the basis of the placement and location of such licensed racetrack enclosure and based on the market as it exists as of the most recent issuance of the statewide horseracing market analysis, statewide casino gaming market analysis, and statewide socioeconomic-impact studies conducted by the commission pursuant to this section. The commission shall deny a licensed racetrack enclosure or gaming operator license application if it finds that approval of such application in such placement and location would be detrimental to the racing or gaming market that exists across the state based on the most recent statewide horseracing market analysis, statewide casino gaming market analysis, and statewide socioeconomic-impact studies;

(28) Do all things necessary and proper to carry out its powers and duties under the Nebraska Racetrack Gaming Act, including the adoption and promulgation of rules and regulations and such other actions as permitted by the Administrative Procedure Act;

(29) Recommend to the Governor and to the General Affairs Committee of the Legislature amendments to all laws administered by the commission; and

(30) As appropriate and as recommended by the executive director of the commission, delegate to an adjudication subcommittee of the commission those powers and duties of the commission as necessary to carry out and effectuate the purposes of the Nebraska Racetrack Gaming Act and investigate and respond to violations of the Nebraska Racetrack Gaming Act. The adjudication subcommittee staff shall be appointed by the executive director. No person may be appointed to the adjudication subcommittee if such person is involved in the investigation of any violation being heard or investigated by the subcommittee. Any action of the adjudication subcommittee may be appealed to the commission or may be reviewed by the commission on its own initiative. The adjudication subcommittee may impose a fine, consistent with the Nebraska Racetrack Gaming Act, not to exceed fifteen thousand dollars, upon a finding that the act or any rule or regulation adopted and promulgated under the act has been violated. The commission shall remit any fines collected under this subdivision

to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Initiative Law 2020, No. 430, § 6; Laws 2021, LB561, § 30; Laws 2022, LB876, § 16; Laws 2023, LB775, § 13.

Effective date September 2, 2023.

Cross References

Administrative Procedure Act, see section 84-920.

9-1110 Sports wagering.

(1) The commission may permit an authorized gaming operator to conduct sports wagering. Any sports wager shall be placed in person or at a wagering kiosk in the designated sports wagering area at the licensed racetrack enclosure. A parimutuel wager in accordance with sections 2-1201 to 2-1218 may be placed in the designated sports wagering area at the licensed racetrack enclosure. An individual employed and authorized to accept a sports wager may also accept a parimutuel wager.

(2) A floor plan identifying the designated sports wagering area, including the location of any wagering kiosks, shall be filed with the commission for review and approval. Modification to a previously approved plan must be submitted for approval at least ten days prior to implementation. The area shall not be accessible to persons under twenty-one years of age and shall have a sign posted to restrict access. Exceptions to this subsection must be approved in writing by the commission.

(3) The authorized gaming operator shall submit controls for approval by the commission, that include the following for operating the designated sports wagering area:

(a) Specific procedures and technology partners to fulfill the requirements set forth by the commission;

(b) Other specific controls as designated by the commission;

(c) A process to easily and prominently impose limitations or notification for wagering parameters, including, but not limited to, deposits and wagers; and

(d) An easy and obvious method for a player to make a complaint and to enable the player to notify the commission if such complaint has not been or cannot be addressed by the sports wagering operator.

(4) The commission shall develop policies and procedures to ensure a prohibited participant is unable to place a sports wager or parimutuel wager.

Source: Laws 2021, LB561, § 34; Laws 2022, LB876, § 20; Laws 2023, LB775, § 14.

Effective date September 2, 2023.

CHAPTER 10

BONDS

Article.

1. General Provisions. 10-110.
4. Internal Improvement Bonds. 10-402 to 10-405.
5. Funding Bonds of Counties. 10-507.
7. School District Bonds. 10-711.
8. County Aid Bonds. 10-804.

ARTICLE 1

GENERAL PROVISIONS

Section

10-110. County bonds; retirement; taxes; levy and collection; duties of county officers.

10-110 County bonds; retirement; taxes; levy and collection; duties of county officers.

The county clerk shall ascertain from the assessment roll of the county the amount of taxable property in such county and the percentage required to be levied thereon to pay the interest and to create a sinking fund. The county board shall levy such percentage upon the taxable property of the county, and the county clerk shall place the same upon the tax roll of the county in a separate column or columns, designating the purposes for which the taxes are levied. The taxes shall be collected by the county treasurer in the same manner that other taxes are collected.

Source: Laws 1875, § 5, p. 171; R.S.1913, § 375; C.S.1922, § 292; C.S. 1929, § 11-111; R.S.1943, § 10-110; Laws 2001, LB 420, § 5; Laws 2023, LB92, § 42.

Operative date September 2, 2023.

ARTICLE 4

INTERNAL IMPROVEMENT BONDS

Section

10-402. County and city bonds; election; proposition; contents; additional levy.

10-403. County and city bonds; proposition; rate of interest.

10-405. County and city bonds; payment; tax levy.

10-402 County and city bonds; election; proposition; contents; additional levy.

The proposition of the question must be accompanied by a provision to levy a tax annually for the payment of the interest on the bonds. An additional amount shall be levied and collected to pay the principal of such bonds.

Source: Laws 1869, § 2, p. 92; Laws 1870, § 1, p. 15; R.S.1913, § 406; C.S.1922, § 323; C.S.1929, § 11-402; R.S.1943, § 10-402; Laws 2023, LB92, § 43.

Operative date September 2, 2023.

10-403 County and city bonds; proposition; rate of interest.

The proposition shall state the rate of interest such bond shall draw.

Source: Laws 1869, § 3, p. 92; R.S.1913, § 407; C.S.1922, § 324; C.S.1929, § 11-403; R.S.1943, § 10-403; Laws 2023, LB92, § 44.
Operative date September 2, 2023.

10-405 County and city bonds; payment; tax levy.

It shall be the duty of the proper officers of such county or city to cause to be annually levied, collected, and paid to the holders of such bonds a special tax on all taxable property within the county or city sufficient to pay the annual interest and principal of the bonds. Not more than twenty percent of the principal of such bonds shall be collected in any one year.

Source: Laws 1869, § 5, p. 93; Laws 1870, § 2, p. 15; R.S.1913, § 409; C.S.1922, § 326; C.S.1929, § 11-405; R.S.1943, § 10-405; Laws 1947, c. 15, § 4, p. 83; Laws 2023, LB92, § 45.
Operative date September 2, 2023.

ARTICLE 5**FUNDING BONDS OF COUNTIES**

Section

10-507. Tax levy; limit.

10-507 Tax levy; limit.

The county board of any county issuing bonds under sections 10-501 to 10-509 shall levy a tax annually for the payment of the interest on the bonds. An additional amount shall be levied and collected sufficient to pay the principal of such bonds at maturity. Not more than twenty percent of the principal of such bonds shall be levied and collected in any one year.

Source: Laws 1879, § 138, p. 389; R.S.1913, § 422; C.S.1922, § 339; C.S.1929, § 11-507; R.S.1943, § 10-507; Laws 2023, LB92, § 46.
Operative date September 2, 2023.

ARTICLE 7**SCHOOL DISTRICT BONDS**

Section

10-711. Tax levy; sinking fund; exception; funds; distribution.

10-711 Tax levy; sinking fund; exception; funds; distribution.

It shall be the duty of the county board in each county to levy annually upon all the taxable property in each school district in such county a tax sufficient to pay the interest that will accrue or is accruing upon any bonds that have been or will be issued by such school district and to provide a sinking fund for the final redemption of the same. Such levy shall be made with the annual levy of the county and the taxes collected with other taxes and when collected shall be paid over to the county treasurer of the county in which the administrative office of such school district is located and shall remain in the hands of such county treasurer as a specific fund for the payment of the interest upon such bonds and for the final payment of the same at maturity. At the request of the

school board of any district, the county board shall omit making a levy to pay the principal of the bonds when no bonds will be due within fifteen years thereafter.

Source: Laws 1879, § 13, p. 173; R.S.1913, § 458; C.S.1922, § 375; C.S.1929, § 11-911; Laws 1933, c. 22, § 2, p. 193; C.S.Supp.,1941, § 11-911; R.S.1943, § 10-711; Laws 1969, c. 50, § 1, p. 269; Laws 1990, LB 924, § 6; Laws 2023, LB92, § 47.
Operative date September 2, 2023.

ARTICLE 8 COUNTY AID BONDS

Section

10-804. Election; proposition; contents; payment; tax levy.

10-804 Election; proposition; contents; payment; tax levy.

The proposition, when submitted, shall state the amount necessary to be raised each year for the payment of the interest on the bonds and for the payment of the principal thereof at maturity. When such bonds shall have been issued or authorized to be issued, the proper officers of such county shall cause to be annually levied and collected a special tax upon all taxable property of such county to raise the annual amount designated in the proposition and to pay the interest and principal of such bonds.

Source: Laws 1913, c. 229, § 5, p. 664; R.S.1913, § 475; C.S.1922, § 392; C.S.1929, § 11-1005; R.S.1943, § 10-804; Laws 2023, LB92, § 48.
Operative date September 2, 2023.

CHAPTER 13

CITIES, COUNTIES, AND OTHER POLITICAL SUBDIVISIONS

Article.

3. Political Subdivisions; Particular Classes and Projects.
 - (k) Regulation of Firearms and Other Weapons. 13-330.
5. Budgets.
 - (a) Nebraska Budget Act. 13-509.
12. Nebraska Public Transportation Act. 13-1205.
26. Convention Center Facility Financing Assistance Act. 13-2602 to 13-2612.
27. Civic and Community Center Financing Act. 13-2706.
31. Sports Arena Facility Financing Assistance Act. 13-3102 to 13-3108.

Cross References

Constitutional provisions:

Development of commercial passenger air service by city, county, or other political subdivision, see Article XV, section 26, Constitution of Nebraska.

ARTICLE 3

POLITICAL SUBDIVISIONS; PARTICULAR CLASSES AND PROJECTS

(k) REGULATION OF FIREARMS AND OTHER WEAPONS

Section

- 13-330. Ownership, possession, storage, transportation, sale, and transfer of firearms and other weapons; power of counties, cities, and villages; ordinance, permit, or regulation; null and void.

(k) REGULATION OF FIREARMS AND OTHER WEAPONS

13-330 Ownership, possession, storage, transportation, sale, and transfer of firearms and other weapons; power of counties, cities, and villages; ordinance, permit, or regulation; null and void.

(1) The Legislature finds and declares that the regulation of the ownership, possession, storage, transportation, sale, and transfer of firearms and other weapons is a matter of statewide concern.

(2) Notwithstanding the provisions of any home rule charter, counties, cities, and villages shall not have the power to:

(a) Regulate the ownership, possession, storage, transportation, sale, or transfer of firearms or other weapons, except as expressly provided by state law; or

(b) Require registration of firearms or other weapons.

(3) Any county, city, or village ordinance, permit, or regulation in violation of subsection (2) of this section is declared to be null and void.

Source: Laws 2009, LB430, § 5; Laws 2010, LB817, § 2; R.S.1943, (2022), § 18-1703; Laws 2023, LB77, § 1.
Effective date September 2, 2023.

ARTICLE 5

BUDGETS

(a) NEBRASKA BUDGET ACT

Section

13-509. County assessor; certify taxable value; when; annexation of property; governing body; duties.

(a) NEBRASKA BUDGET ACT

13-509 County assessor; certify taxable value; when; annexation of property; governing body; duties.

(1) On or before August 20 of each year, the county assessor shall certify to each governing body or board empowered to levy or certify a tax levy the current taxable value of the taxable real and personal property subject to the applicable levy. The certification shall be provided to the governing body or board (a) by mail if requested by the governing body or board, (b) electronically, or (c) by listing such certification on the county assessor's website.

(2) Current taxable value for real property shall mean the value established by the county assessor and equalized by the county board of equalization and the Tax Equalization and Review Commission. Current taxable value for tangible personal property shall mean the net book value reported by the taxpayer and certified by the county assessor.

(3) If a political subdivision annexes property since the last time taxable values were certified under subsection (1) of this section, the governing body of such political subdivision shall file and record a certified copy of the annexation ordinance, petition, or resolution in the office of the register of deeds or, if none, the county clerk and the county assessor of the county in which the annexed property is located. The annexation ordinance, petition, or resolution shall include a full legal description of the annexed property. If the register of deeds or county clerk receives and records such ordinance, petition, or resolution prior to July 1 or, for annexations by a city of the metropolitan class, prior to August 1, the valuation of the real and personal property annexed shall be considered in the taxable valuation of the annexing political subdivision for the current year. If the register of deeds or county clerk receives and records such ordinance, petition, or resolution on or after July 1 or, for annexations by a city of the metropolitan class, on or after August 1, the valuation of the real and personal property annexed shall be considered in the taxable valuation of the annexing political subdivision for the following year.

(4) If the legal voters of a political subdivision have approved a bond since the last time taxable values were certified under subsection (1) of this section, the governing body of such political subdivision shall file a copy of the bond language approved by the legal voters of the political subdivision and a full legal description of the property subject to the bond with the county assessor of the county or counties in which such political subdivision is located. If the county assessor receives such copy and full legal description prior to July 1 or, for bonds of a city of the metropolitan class, prior to August 1, the valuation of the real and personal property subject to the bond shall be included in the value certified by the county assessor pursuant to subsection (1) of this section for the current year. If the county assessor receives such copy and full legal description on or after July 1 or, for bonds of a city of the metropolitan class, on or after

August 1, the valuation of the real and personal property subject to the bond shall be included in the value certified by the county assessor pursuant to subsection (1) of this section for the following year.

Source: Laws 1977, LB 391, § 3; Laws 1979, LB 187, § 256; Laws 1984, LB 835, § 1; R.S.Supp.,1986, § 23-927.01; Laws 1991, LB 829, § 1; Laws 1992, LB 1063, § 5; Laws 1992, Second Spec. Sess., LB 1, § 5; Laws 1993, LB 734, § 20; Laws 1994, LB 902, § 12; Laws 1995, LB 452, § 3; Laws 1997, LB 271, § 12; Laws 1997, LB 397, § 2; Laws 1998, LB 306, § 3; Laws 1999, LB 194, § 1; Laws 1999, LB 813, § 1; Laws 2005, LB 261, § 1; Laws 2009, LB166, § 2; Laws 2010, LB1071, § 1; Laws 2017, LB217, § 2; Laws 2019, LB524, § 1; Laws 2023, LB92, § 49.
Operative date September 2, 2023.

ARTICLE 12

NEBRASKA PUBLIC TRANSPORTATION ACT

Section

13-1205. Department; powers, duties, and responsibilities; enumerated.

13-1205 Department; powers, duties, and responsibilities; enumerated.

The department shall have the following powers, duties, and responsibilities:

- (1) To collect and maintain data on the level of public transportation services and needs in the state and identify areas not being adequately served by existing public or private transportation services;
- (2) To assess the regional and statewide effect of changes, improvement, and route abandonments in the state's public transportation system;
- (3) To develop a six-year statewide transit plan and programs for public transportation in coordination with local plans and programs developed by municipalities, counties, transit authorities, and regional metropolitan transit authorities;
- (4) To provide planning and technical assistance to agencies of the state, political subdivisions, or groups seeking to improve public transportation;
- (5) To advise, consult, and cooperate with agencies of the state, the federal government, and other states, interstate agencies, political subdivisions, and groups concerned with public transportation;
- (6) To cooperate with the Public Service Commission by providing periodic assessments to the commission when determining the effect of proposed regulatory decisions on public transportation;
- (7) To administer federal and state programs providing financial assistance to public transportation, except those federal and state programs in which a municipality, county, transit authority, regional metropolitan transit authority, or other state agency is designated as the administrator;
- (8) To develop and administer a safety oversight program to oversee rail transit systems operated by the state, an interstate agency, or any political subdivision; and
- (9) To exercise all other powers necessary and proper for the discharge of its duties, including the adoption and promulgation of reasonable rules and regulations to carry out the Nebraska Public Transportation Act.

Source: Laws 1975, LB 443, § 9; Laws 1979, LB 322, § 4; Laws 1981, LB 545, § 4; Laws 1981, LB 144, § 4; R.S.1943, (1983), § 19-3905;

Laws 1993, LB 158, § 4; Laws 2012, LB782, § 16; Laws 2013, LB222, § 3; Laws 2019, LB492, § 28; Laws 2023, LB138, § 2.
Operative date September 2, 2023.

ARTICLE 26

CONVENTION CENTER FACILITY FINANCING ASSISTANCE ACT

Section

- 13-2602. Legislative findings.
- 13-2603. Terms, defined.
- 13-2604. State assistance.
- 13-2605. State assistance; application; contents.
- 13-2609. Tax Commissioner; duties; certain retailers and operators; reports required.
- 13-2610. Convention Center Support Fund; created; use; investment; distribution to certain areas; development fund; committee; duties; report; recipient; report.
- 13-2611. Bonds; issuance; election.
- 13-2612. Act; applications; limitation.

13-2602 Legislative findings.

(1) The Legislature finds that it will be beneficial to the economic well-being of the people of this state that there be convention and meeting center facilities and sports arena facilities of appropriate size and quality to host regional, national, or international events. Regional refers to states that border Nebraska; national refers to states other than those that border Nebraska; and international refers to nations other than the United States.

(2) The Legislature further finds that such facilities may (a) generate new economic activity as well as additional state and local taxes from persons residing within and outside the state and (b) create new economic opportunities for residents.

(3) In order that the state may receive any long-term economic and fiscal benefits from such facilities, a need exists to provide some state assistance to political subdivisions endeavoring to construct, acquire, substantially reconstruct, expand, operate, improve, or equip such facilities.

(4) Therefore, it is deemed to be in the best interest of both the state and its political subdivisions that the state assist political subdivisions in financing the construction, acquisition, substantial reconstruction, expansion, operation, improvement, or equipping of such facilities.

(5) The amount of state assistance provided under the Convention Center Facility Financing Assistance Act shall be limited to a designated portion of state sales tax revenue collected by retailers and operators doing business at such facilities on sales at such facilities, state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and state sales tax revenue collected by associated hotels and nearby retailers.

Source: Laws 1999, LB 382, § 2; Laws 2007, LB551, § 1; Laws 2023, LB727, § 16.
Operative date June 7, 2023.

Cross References

Limitation on applications, see section 13-2612.

13-2603 Terms, defined.

For purposes of the Convention Center Facility Financing Assistance Act:

(1) Associated hotel means any publicly or privately owned facility in which the public may, for a consideration, obtain sleeping accommodations and which is located, in whole or in part, within six hundred yards of an eligible facility, measured from any point of the exterior perimeter of the eligible facility but not from any parking facility or other structure, except that if the eligible facility is within six hundred yards of the State Capitol, the area used in determining associated hotels shall be one or more areas selected by the applicant which aggregate the same total amount of square footage that such area would have contained had the eligible facility not been within six hundred yards of the State Capitol. The area used in determining associated hotels shall be depicted on a map submitted pursuant to section 13-2605;

(2) Board means a board consisting of the Governor, the State Treasurer, the chairperson of the Nebraska Investment Council, the chairperson of the Nebraska State Board of Public Accountancy, and a professor of economics on the faculty of a state postsecondary educational institution appointed to a two-year term on the board by the Coordinating Commission for Postsecondary Education. For administrative and budget purposes only, the board shall be considered part of the Department of Revenue;

(3) Bond means a general obligation bond, redevelopment bond, lease-purchase bond, revenue bond, or combination of any such bonds;

(4) Convention and meeting center facility means a temperature-controlled building and personal property primarily used as a convention and meeting center, including an auditorium, an exhibition hall, a facility for onsite food preparation and serving, an onsite, directly connected parking facility for the use of the convention and meeting center facility, a nearby parking facility for the use of the convention and meeting center facility, and an onsite administrative office of the convention and meeting center facility;

(5)(a) Eligible facility means any publicly owned convention and meeting center facility approved for state assistance on or before June 1, 2007, any publicly owned sports arena facility attached to such convention and meeting center facility, or any publicly owned convention and meeting center facility or publicly owned sports arena facility acquired, constructed, improved, or equipped after June 1, 2007; and

(b) Beginning with applications for financial assistance received on or after February 1, 2008, eligible facility does not include any publicly owned sports arena facility with a seating capacity greater than sixteen thousand seats;

(6) General obligation bond means any bond or refunding bond issued by a political subdivision and which is payable exclusively from the proceeds of an ad valorem tax;

(7) Nearby parking facility means any parking lot, parking garage, or other parking structure that is not directly connected to a convention and meeting center facility but which is located, in whole or in part, within six hundred yards of a convention and meeting center facility, measured from any point of the exterior perimeter of such facility but not from any other parking facility or other structure;

(8) Nearby retailer means a retailer as defined in section 77-2701.32 that is located, in whole or in part, within six hundred yards of an eligible facility the application for which is approved on or after June 7, 2023, measured from any

point of the exterior perimeter of the eligible facility but not from any parking facility or other structure, except that if the eligible facility is within six hundred yards of the State Capitol, the area used in determining nearby retailers shall be one or more areas selected by the applicant which aggregate the same total amount of square footage that such area would have contained had the eligible facility not been within six hundred yards of the State Capitol. The area used in determining nearby retailers shall be depicted on a map submitted pursuant to section 13-2605;

(9) Political subdivision means any local governmental body formed and organized under state law and any joint entity or joint public agency created under state law to act on behalf of political subdivisions which has statutory authority to issue general obligation bonds;

(10) Revenue bond means any bond or refunding bond issued by a political subdivision which is limited or special rather than a general obligation bond of the political subdivision and which is not payable from the proceeds of an ad valorem tax; and

(11) Sports arena facility means any enclosed temperature-controlled building primarily used for competitive sports, including arenas, dressing and locker facilities, concession areas, parking facilities, and onsite administrative offices connected with operating the facilities.

Source: Laws 1999, LB 382, § 3; Laws 2007, LB551, § 2; Laws 2008, LB912, § 1; Laws 2016, LB884, § 1; Laws 2022, LB927, § 1; Laws 2023, LB727, § 17.
Operative date June 7, 2023.

Cross References

Limitation on applications, see section 13-2612.

13-2604 State assistance.

Any political subdivision that has acquired, constructed, improved, or equipped or has approved a bond issue to acquire, construct, improve, or equip eligible facilities may apply to the board for state assistance. The state assistance shall be used:

(1) To pay back amounts expended or borrowed through one or more issues of bonds to be expended by the political subdivision to acquire, construct, improve, repair, replace, and equip any eligible facilities until repayment in full of the amounts expended or borrowed by the political subdivision, including the principal of and interest on bonds, for all of its eligible facilities;

(2) To pay for capital improvements to any eligible facilities; and

(3) To acquire, construct, improve, repair, replace, and equip nearby parking facilities.

Source: Laws 1999, LB 382, § 4; Laws 2010, LB779, § 3; Laws 2016, LB884, § 2; Laws 2022, LB927, § 2; Laws 2023, LB727, § 18.
Operative date June 7, 2023.

Cross References

Limitation on applications, see section 13-2612.

13-2605 State assistance; application; contents.

CONVENTION CENTER FACILITY FINANCING ASSISTANCE ACT § 13-2609

(1) All applications for state assistance under the Convention Center Facility Financing Assistance Act shall be in writing and shall include a certified copy of the approving action of the governing body of the applicant describing the proposed eligible facility and the anticipated financing.

(2) The application shall contain:

(a) A description of the proposed financing of the eligible facility, including the estimated principal and interest requirements for the bonds proposed to be issued in connection with the eligible facility or the amounts necessary to repay the original investment by the applicant in the eligible facility;

(b) Documentation of local financial commitment to support the project, including all public and private resources pledged or committed to the project;

(c) A map identifying the area to be used in determining associated hotels and nearby retailers; and

(d) Any other project information deemed appropriate by the board.

(3) Upon receiving an application for state assistance, the board shall review the application and notify the applicant of any additional information needed for a proper evaluation of the application.

(4) Any state assistance received pursuant to the act shall be used only for public purposes.

(5) Approval of an application for state assistance by the board after June 7, 2023, pursuant to section 13-2607 shall establish the area to be used for determining associated hotels and nearby retailers as the aggregate area depicted in the map accompanying the application for state assistance as submitted pursuant to subdivision (2)(c) of this section.

(6) Each political subdivision that had an application for state assistance approved prior to October 1, 2016, shall submit a map to the Department of Revenue showing the area that lies within six hundred yards of the eligible facility as such area is described in subdivision (1) of section 13-2603. The department shall approve such area if it satisfies the requirements of subdivision (1) of section 13-2603.

Source: Laws 1999, LB 382, § 5; Laws 2007, LB551, § 3; Laws 2016, LB884, § 3; Laws 2023, LB727, § 19.
Operative date June 7, 2023.

Cross References

Limitation on applications, see section 13-2612.

13-2609 Tax Commissioner; duties; certain retailers and operators; reports required.

(1) If an application is approved, the Tax Commissioner shall:

(a) Audit or review audits of the approved convention and meeting center facility, sports arena facility, associated hotel, or nearby retailer to determine the state sales tax revenue collected by retailers and operators doing business at such facilities on sales at such facilities, state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and state sales tax revenue collected by associated hotels and nearby retailers; and

(b) Certify annually the amount of state sales tax revenue collected by retailers and operators doing business at such facilities on sales at such facilities, state sales tax revenue collected on primary and secondary box office

sales of admissions to such facilities, and state sales tax revenue collected by associated hotels and nearby retailers, to the State Treasurer.

(2) State sales tax revenue collected by retailers and operators that are not eligible facilities but are doing business at eligible facilities shall be reported on informational returns developed by the Department of Revenue and provided to any such retailers and operators by the eligible facility. The informational returns shall be submitted to the department by the retailer or operator by the twentieth day of the month following the month the sales taxes are collected. The Tax Commissioner shall use the data from the informational returns and sales tax returns of eligible facilities, associated hotels, and nearby retailers to determine the appropriate amount of state sales tax revenue.

(3) Changes made to the Convention Center Facility Financing Assistance Act by Laws 2007, LB 551, shall apply to state sales tax revenue collected commencing on July 1, 2006.

Source: Laws 1999, LB 382, § 9; Laws 2007, LB551, § 5; Laws 2011, LB210, § 1; Laws 2023, LB727, § 20.
Operative date June 7, 2023.

Cross References

Limitation on applications, see section 13-2612.

13-2610 Convention Center Support Fund; created; use; investment; distribution to certain areas; development fund; committee; duties; report; recipient; report.

(1) Upon the annual certification under section 13-2609, the State Treasurer shall transfer after the audit the amount certified to the Convention Center Support Fund. The Convention Center Support Fund is created. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Convention Center Support 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) It is the intent of the Legislature to appropriate from the fund to any political subdivision for which an application for state assistance under the Convention Center Facility Financing Assistance Act has been approved an amount not to exceed (i) seventy percent of the state sales tax revenue collected by retailers and operators doing business at such facilities on sales at such facilities, state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and state sales tax revenue collected by associated hotels and nearby retailers, (ii) one hundred fifty million dollars for any one approved project, or (iii) the total cost of acquiring, constructing, improving, repairing, replacing, or equipping the eligible facilities of the political subdivision. State assistance shall not be used for an operating subsidy.

(b) It is further the intent of the Legislature to appropriate from the fund to any city of the metropolitan class for which an application for state assistance under the Convention Center Facility Financing Assistance Act has been approved an amount not to exceed the amount of money transferred to the fund pursuant to subdivision (9)(a) of section 13-3108.

(3)(a) Ten percent of the funds appropriated to a city of the metropolitan class under subdivision (2)(a) of this section and all of the funds appropriated to a city of the metropolitan class under subdivision (2)(b) of this section shall be

equally distributed to areas with a high concentration of poverty. Fifty-five percent of such funds shall be used to showcase important historical aspects of such areas or areas within close geographic proximity of the area with a high concentration of poverty and to assist with the reduction of street and gang violence in such areas. Forty-five percent of such funds shall be used to assist with small business and entrepreneurship growth in such areas.

(b) Each area with a high concentration of poverty that has been distributed funds under subdivision (3)(a) of this section shall establish a development fund and form a committee which shall identify and research potential projects to be completed in the area with a high concentration of poverty or in an area within close geographic proximity of such area if the project would have a significant or demonstrable impact on such area and make final determinations on the use of the funds received for such projects.

(c) A committee formed under subdivision (3)(b) of this section shall include the following members:

(i) The member of the city council whose district includes a majority of the census tracts which each contain a percentage of persons below the poverty line of greater than thirty percent, as determined by the most recent federal decennial census, within the area with a high concentration of poverty;

(ii) The commissioner of the county whose district includes a majority of the census tracts which each contain a percentage of persons below the poverty line of greater than thirty percent, as determined by the most recent federal decennial census, within the area with a high concentration of poverty;

(iii) Two residents of the area with a high concentration of poverty, appointed by the two members of the committee described in subdivisions (3)(c)(i) and (ii) of this section. Such resident members shall be appointed for four-year terms. Each time a resident member is to be appointed pursuant to this subdivision, the committee shall solicit applications from interested individuals by posting notice of the open position on the city's website and on the city's official social media accounts, if any, and by publishing the notice in a legal newspaper in or of general circulation in the area with a high concentration of poverty. Applications may be submitted to either of the committee members described in subdivisions (3)(c)(i) and (ii) of this section. Prior to making any appointment, the committee shall hold a public hearing in the area with a high concentration of poverty. Notice of the hearing shall be provided, at least seven days prior to the hearing, by posting the notice on the city's website and on the city's official social media accounts, if any, and by publishing the notice in a legal newspaper in or of general circulation in the area with a high concentration of poverty; and

(iv) The member of the Legislature whose district includes a majority of the census tracts which each contain a percentage of persons below the poverty line of greater than thirty percent, as determined by the most recent federal decennial census, within the area with a high concentration of poverty. The member described in this subdivision shall be a nonvoting member of the committee.

(d) A committee formed under subdivision (3)(b) of this section shall solicit project ideas from the public and shall hold a public hearing in the area with a high concentration of poverty. Notice of a proposed hearing shall be provided in accordance with the procedures for notice of a public hearing pursuant to section 18-2115.01. The committee shall research potential projects and make

the final determination regarding the annual distribution of funding to such projects.

(e) For any committee formed under subdivision (3)(b) of this section:

(i) The two committee members described in subdivisions (3)(c)(i) and (ii) of this section shall share joint responsibility of all committee operations and meetings. Applications for funding may be submitted to either of such members; and

(ii) All applications, reports, and other records of the committee shall be accessible to any member of the committee.

(f) Each recipient of funding from a committee formed under subdivision (3)(b) of this section shall submit an itemized report to such committee on the use of such funds. A recipient shall not be eligible to receive funding for more than three consecutive years unless such recipient is able to justify continued funding based on the following criteria:

(i) The number of people served by the project;

(ii) The relevance and scale of the project;

(iii) The desirability of the social or environmental outcomes of the project and how such outcomes will be achievable and measurable;

(iv) The economic impact on the area with a high concentration of poverty; and

(v) The recipient's sustainability plan.

(g) On or before July 1, 2022, and on or before July 1 of each year thereafter, a committee formed under subdivision (3)(b) of this section shall electronically submit a report to the Legislature which includes:

(i) A description of the projects that were funded during the most recently completed calendar year;

(ii) A description of where such projects were located;

(iii) A description of the outcomes of such projects; and

(iv) A ten-year strategic plan on how the committee plans to meet the goals described in subdivision (3)(a) of this section.

(h) For purposes of this subsection, an area with a high concentration of poverty means an area within the corporate limits of a city of the metropolitan class consisting of one or more contiguous census tracts, as determined by the most recent federal decennial census, which contain a percentage of persons below the poverty line of greater than thirty percent, and all census tracts contiguous to such tract or tracts, as determined by the most recent federal decennial census.

(4)(a) Ten percent of the funds appropriated to a city of the primary class under subdivision (2)(a) of this section may, if the city determines by consent of the city council that such funds are not currently needed for the purposes described in section 13-2604, be used as follows:

(i) For investment in the construction of qualified low-income housing projects as defined in 26 U.S.C. 42, including qualified projects receiving Nebraska affordable housing tax credits under the Affordable Housing Tax Credit Act; or

(ii) If there are no such qualified low-income housing projects as defined in 26 U.S.C. 42 being constructed or expected to be constructed within the

political subdivision, for investment in areas with a high concentration of poverty to assist with low-income housing needs.

(b) For purposes of this subsection, an area with a high concentration of poverty means an area within the corporate limits of a city of the primary class consisting of one or more contiguous census tracts, as determined by the most recent American Community Survey 5-Year Estimate, which contain a percentage of persons below the poverty line of greater than thirty percent, and all census tracts contiguous to such tract or tracts, as determined by the most recent American Community Survey 5-Year Estimate.

(5) State assistance to the political subdivision shall no longer be available upon the retirement of the bonds issued to acquire, construct, improve, repair, replace, or equip all of the political subdivision's facilities or any subsequent bonds that refunded the original issue or when state assistance reaches the amount determined under subdivision (2)(a) of this section, whichever comes first.

(6) The remaining thirty percent of state sales tax revenue collected by retailers and operators doing business at such facilities on sales at such facilities, state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and state sales tax revenue collected by associated hotels and nearby retailers, shall be appropriated by the Legislature to the Civic and Community Center Financing Fund. Upon the annual certification required pursuant to section 13-2609 and following the transfer to the Convention Center Support Fund required pursuant to subsection (1) of this section, the State Treasurer shall transfer an amount equal to the remaining thirty percent from the Convention Center Support Fund to the Civic and Community Center Financing Fund.

(7) Any municipality that has applied for and received a grant of assistance under the Civic and Community Center Financing Act may not receive state assistance under the Convention Center Facility Financing Assistance Act.

Source: Laws 1999, LB 382, § 10; Laws 2007, LB551, § 6; Laws 2008, LB754, § 1; Laws 2009, LB63, § 1; Laws 2010, LB975, § 1; Laws 2011, LB297, § 1; Laws 2015, LB661, § 28; Laws 2016, LB884, § 4; Laws 2018, LB874, § 1; Laws 2021, LB39, § 1; Laws 2021, LB479, § 1; Laws 2022, LB927, § 3; Laws 2023, LB727, § 21.
Operative date June 7, 2023.

Cross References

Affordable Housing Tax Credit Act, see section 77-2501.

Civic and Community Center Financing Act, see section 13-2701.

Limitation on applications, see section 13-2612.

Nebraska Capital Expansion Act, see section 72-1269.

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

13-2611 Bonds; issuance; election.

(1) The applicant political subdivision may issue from time to time its bonds and refunding bonds to finance and refinance the acquisition, construction, improving, repairing, replacing, and equipping of eligible facilities and appurtenant public facilities that are a part of the same project or projects. The bonds may be sold by the applicant in such manner and for such price as the applicant determines, at a discount, at par, or at a premium, at private negotiated sale or at public sale, after notice published prior to the sale in a legal newspaper having general circulation in the political subdivision or in

such other medium of publication of notice of sale as the applicant deems appropriate. The bonds shall have a stated maturity of forty years or less and shall bear interest at such rate or rates and otherwise be issued in accordance with the respective procedures and with such other terms and provisions as are established, permitted, or authorized by applicable state laws and home rule charters for the type of bonds to be issued. Such bonds may be secured as to payment in whole or in part by a pledge, as shall be determined by the applicant, from the income, proceeds, and revenue of the eligible facilities financed with proceeds of such bonds, from the income, proceeds, and revenue of any of its eligible facilities, or from its revenue and income, including its sales, use, or occupation tax revenue, fees, appropriations, or receipts, as may be determined by the applicant. The applicant may further secure the bonds by a mortgage or deed of trust encumbering all or any portion of the eligible facilities and by a bond insurance policy or other credit support facility. No general obligation bonds, except refunding bonds, shall be issued until authorized by greater than fifty percent of the applicant's electors voting on the question as to their issuance at any election as defined in section 32-108. The face of the bonds shall plainly state that the bonds and the interest thereon shall not constitute nor give rise to an indebtedness, obligation, or pecuniary liability of the state nor a charge against the general credit, revenue, or taxing power of the state. Bonds of the applicant are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempt from all state income taxes.

(2) All payments to political subdivisions under the Convention Center Facility Financing Assistance Act are made subject to specific appropriation for such purpose. Nothing in the act precludes the Legislature from amending or repealing the act at any time.

Source: Laws 1999, LB 382, § 11; Laws 2009, LB402, § 1; Laws 2023, LB727, § 22.
Operative date June 7, 2023.

Cross References

Limitation on applications, see section 13-2612.

13-2612 Act; applications; limitation.

The board shall not accept applications for assistance under the Convention Center Facility Financing Assistance Act after December 31, 2030.

Source: Laws 1999, LB 382, § 12; Laws 2007, LB551, § 7; Laws 2009, LB402, § 2; Laws 2023, LB727, § 23.
Operative date June 7, 2023.

ARTICLE 27

CIVIC AND COMMUNITY CENTER FINANCING ACT

Section

13-2706. Eligibility for grant; grant application.

13-2706 Eligibility for grant; grant application.

(1) Except as provided in subsection (2) of this section for a city of the primary class, any municipality that has applied for and received a grant of assistance under the Sports Arena Facility Financing Assistance Act shall not

receive state assistance under the Civic and Community Center Financing Act for the same project for which the grant was awarded under the Sports Arena Facility Financing Assistance Act.

(2) A city of the primary class shall not be eligible to receive a grant of assistance from the Civic and Community Center Financing Act if the city has applied for and received a grant of assistance under the Sports Arena Facility Financing Assistance Act.

(3) Any city that has received funding under the Convention Center Facility Financing Assistance Act shall not receive state assistance under the Civic and Community Center Financing Act.

(4) From July 1, 2023, to June 30, 2024, a municipality shall be eligible for a grant of assistance under the Civic and Community Center Financing Act only if such municipality (a) partners with a certified creative district and (b) is not prohibited from receiving a grant of assistance under subsection (1), (2), or (3) of this section. Notwithstanding the limitations on the amount of grants of assistance in section 13-2705, the department may award grants of assistance to qualifying municipalities in amounts set by the Nebraska Arts Council, which shall not be less than one hundred thousand dollars. The department shall coordinate with the Nebraska Arts Council for purposes of setting such amounts. For purposes of this subsection, certified creative district means a creative district certified pursuant to subdivision (5) of section 82-312. After June 30, 2024, this subsection no longer applies.

(5) Any municipality eligible for a grant of assistance as provided in this section may apply for a grant of assistance from the fund. Any tribal government may apply for a grant of assistance from the fund. Application shall be made on forms developed by the department.

Source: Laws 1999, LB 382, § 18; Laws 2003, LB 385, § 2; Laws 2007, LB551, § 8; Laws 2010, LB779, § 6; Laws 2012, LB426, § 1; Laws 2022, LB800, § 3; Laws 2022, LB927, § 5; Laws 2023, LB727, § 24.

Operative date June 7, 2023.

Cross References

Convention Center Facility Financing Assistance Act, see section 13-2601.
Sports Arena Facility Financing Assistance Act, see section 13-3101.

ARTICLE 31

SPORTS ARENA FACILITY FINANCING ASSISTANCE ACT

Section

- 13-3102. Terms, defined.
- 13-3103. State assistance; applicant; conditions; limitation on use.
- 13-3104. Application; contents; board; duties.
- 13-3108. Sports Arena Facility Support Fund; created; investment; State Treasurer; duties; state assistance; use.

13-3102 Terms, defined.

For purposes of the Sports Arena Facility Financing Assistance Act:

(1) Applicant means:

(a) A political subdivision; or

(b) A political subdivision and nonprofit organization that jointly submit an application under the act;

(2) Board means a board consisting of the Governor, the State Treasurer, the chairperson of the Nebraska Investment Council, the chairperson of the Nebraska State Board of Public Accountancy, and a professor of economics on the faculty of a state postsecondary educational institution appointed to a two-year term on the board by the Coordinating Commission for Postsecondary Education. For administrative and budget purposes only, the board shall be considered part of the Department of Revenue;

(3) Bond means a general obligation bond, redevelopment bond, lease-purchase bond, revenue bond, or combination of any such bonds;

(4) Concert venue means any enclosed, temperature-controlled building that is primarily used for live performances with an indoor capacity of at least two thousand two hundred fifty but no more than three thousand five hundred persons;

(5) Court means a rectangular hard surface primarily used indoors for competitive sports, including, but not limited to, basketball, volleyball, or tennis;

(6) Date that the project commenced means the date when a project starts as specified by a contract, resolution, or formal public announcement;

(7) Economic redevelopment area means an area in the State of Nebraska in which:

(a) The average rate of unemployment in the area during the period covered by the most recent federal decennial census or American Community Survey 5-Year Estimate by the United States Bureau of the Census is at least one hundred fifty percent of the average rate of unemployment in the state during the same period; and

(b) The average poverty rate in the area is twenty percent or more for the federal census tract in the area;

(8) Eligible sports arena facility means:

(a) Any publicly owned, enclosed, and temperature-controlled building primarily used for sports that has a permanent seating capacity of at least three thousand but no more than seven thousand seats and in which initial occupancy occurs on or after July 1, 2010, including stadiums, arenas, dressing and locker facilities, concession areas, parking facilities, nearby parking facilities for the use of the eligible sports arena facility, and onsite administrative offices connected with operating the facilities;

(b) Any racetrack enclosure licensed by the State Racing and Gaming Commission in which initial occupancy occurs on or after July 1, 2010, including concession areas, parking facilities, and onsite administrative offices connected with operating the racetrack;

(c) Any sports complex, including concession areas, parking facilities, and onsite administrative offices connected with operating the sports complex; and

(d) Any privately owned concert venue, including stages, dressing rooms, concession areas, parking facilities, lobby areas, and onsite administrative offices used in operating the concert venue;

(9) General obligation bond means any bond or refunding bond issued by a political subdivision and which is payable from the proceeds of an ad valorem tax;

(10) Increase in state sales tax revenue means the amount of state sales tax revenue collected by a nearby retailer during the fiscal year for which state assistance is calculated minus the amount of state sales tax revenue collected by the nearby retailer in the fiscal year that ended immediately preceding the project completion date of the eligible sports arena facility, except that the amount of state sales tax revenue of a nearby retailer shall not be less than zero;

(11) Multipurpose field means a rectangular field of grass or synthetic turf which is primarily used for competitive field sports, including, but not limited to, soccer, football, flag football, lacrosse, or rugby;

(12) Nearby parking facility means any parking lot, parking garage, or other parking structure that is not directly connected to an eligible sports arena facility but which is located, in whole or in part, within seven hundred yards of an eligible sports arena facility, measured from any point of the exterior perimeter of such facility but not from any other parking facility or other structure;

(13) Nearby retailer means a retailer as defined in section 77-2701.32 that is located within the program area. The term includes a subsequent owner of a nearby retailer operating at the same location;

(14) New state sales tax revenue means:

(a) For any eligible sports arena facility that is not a sports complex:

(i) One hundred percent of the state sales tax revenue that (A) is collected by a nearby retailer that commenced collecting state sales tax during the period of time beginning twenty-four months prior to the project completion date of the eligible sports arena facility and ending forty-eight months after the project completion date of the eligible sports arena facility or, for applications for state assistance approved prior to October 1, 2016, forty-eight months after October 1, 2016, and (B) is sourced under sections 77-2703.01 to 77-2703.04 to the program area; and

(ii) The increase in state sales tax revenue that (A) is collected by a nearby retailer that commenced collecting state sales tax prior to twenty-four months prior to the project completion date of the eligible sports arena facility and (B) is sourced under sections 77-2703.01 to 77-2703.04 to the program area; or

(b) For any eligible sports arena facility that is a sports complex, one hundred percent of the state sales tax revenue that (i) is collected by a nearby retailer that commenced collecting state sales tax during the period of time beginning on the date that the project commenced and ending forty-eight months after the project completion date of the eligible sports arena facility and (ii) is sourced under sections 77-2703.01 to 77-2703.04 to the program area;

(15) Political subdivision means any city, village, or county;

(16) Program area means:

(a) For any eligible sports arena facility that is not a sports complex:

(i) For applications for state assistance submitted prior to October 1, 2016, the area that is located within six hundred yards of an eligible sports arena

facility, measured from any point of the exterior perimeter of the facility but not from any parking facility or other structure; or

(ii) For applications for state assistance submitted on or after October 1, 2016, the area that is located within six hundred yards of an eligible sports arena facility, measured from any point of the exterior perimeter of the facility but not from any parking facility or other structure, except that if twenty-five percent or more of such area is unbuildable property, then the program area shall be adjusted so that:

(A) It avoids as much of the unbuildable property as is practical; and

(B) It contains contiguous property with the same total amount of square footage that the program area would have contained had no adjustment been necessary; or

(b) For any eligible sports arena facility that is a sports complex, the area that is located within six hundred yards of an eligible sports arena facility, measured from any point of the exterior boundary or property line of the facility.

Approval of an application for state assistance by the board pursuant to section 13-3106 shall establish the program area as that area depicted in the map accompanying the application for state assistance as submitted pursuant to subdivision (2)(c) of section 13-3104;

(17) Project completion date means:

(a) For projects involving the acquisition or construction of an eligible sports arena facility, the date of initial occupancy of the facility following the completion of such acquisition or construction; or

(b) For all other projects, the date of completion of the project for which state assistance is received;

(18) Revenue bond means any bond or refunding bond issued by a political subdivision which is limited or special rather than a general obligation bond of the political subdivision and which is not payable from the proceeds of an ad valorem tax;

(19) Sports complex means a facility that:

(a) Includes indoor areas, outdoor areas, or both;

(b) Is primarily used for competitive sports; and

(c) Contains at least:

(i) Twelve separate sports venues if such facility is located in a city of the metropolitan class;

(ii) Six separate sports venues if such facility is located in a city of the primary class; or

(iii) Four separate sports venues if such facility is located (A) in a city of the first class, city of the second class, or village, (B) within a county but outside the corporate limits of any city or village, (C) in an economic redevelopment area, or (D) in an opportunity zone designated pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97;

(20) Sports venue includes, but is not limited to:

(a) A baseball field;

(b) A softball field;

(c) A multipurpose field;

- (d) An outdoor stadium primarily used for competitive sports;
- (e) An outdoor arena primarily used for competitive sports; or
- (f) An enclosed, temperature-controlled building primarily used for competitive sports. If any such building contains more than one multipurpose field, court, swimming pool, or other facility primarily used for competitive sports, then each such multipurpose field, court, swimming pool, or facility shall count as a separate sports venue; and

(21) Unbuildable property means any real property that is located in a floodway, an environmentally protected area, a right-of-way, or a brownfield site as defined in 42 U.S.C. 9601 that the political subdivision determines is not suitable for the construction or location of residential, commercial, or other buildings or facilities.

Source: Laws 2010, LB779, § 8; Laws 2016, LB884, § 6; Laws 2021, LB39, § 2; Laws 2021, LB561, § 46; Laws 2022, LB927, § 6; Laws 2023, LB727, § 25.
Operative date June 7, 2023.

13-3103 State assistance; applicant; conditions; limitation on use.

(1) Any applicant may apply to the board for state assistance if (a) the applicant has acquired, constructed, improved, or equipped an eligible sports arena facility, (b) the applicant has approved a revenue bond issue or a general obligation bond issue to acquire, construct, improve, or equip an eligible sports arena facility, (c) the applicant has adopted a resolution authorizing the applicant to pursue a general obligation bond issue to acquire, construct, improve, or equip an eligible sports arena facility, or (d) a building permit has been issued within the applicant's jurisdiction for an eligible sports arena facility that is a privately owned concert venue.

(2) The state assistance shall only be used by the applicant to pay back amounts expended or borrowed through one or more issues of bonds to be expended by the applicant to acquire, construct, improve, or equip the eligible sports arena facility and to acquire, construct, improve, or equip nearby parking facilities.

(3) For an eligible sports arena facility that is a privately owned concert venue, the state assistance shall only be used by the applicant (a) to pay back amounts expended or borrowed through one or more issues of bonds to be expended by the applicant to acquire, construct, improve, or equip a nearby parking facility or (b) to promote arts and cultural events which are open to or made available to the general public.

(4) For applications for state assistance approved on or after October 1, 2016, (a) no more than fifty percent of the final cost of the project shall be funded by state assistance received pursuant to section 13-3108 and (b) no more than ten years of funding for promotion of the arts and cultural events shall be paid by state assistance received pursuant to section 13-3108.

Source: Laws 2010, LB779, § 9; Laws 2016, LB884, § 7; Laws 2021, LB39, § 3; Laws 2022, LB927, § 7; Laws 2023, LB727, § 26.
Operative date June 7, 2023.

13-3104 Application; contents; board; duties.

(1) All applications for state assistance under the Sports Arena Facility Financing Assistance Act shall be in writing and shall include a certified copy of the approving action of the governing body of the applicant describing the proposed project for which state assistance is requested and the anticipated financing.

(2) Except as provided in subsection (3) of this section, the application shall contain:

(a) A description of the proposed financing of the project, including the estimated principal and interest requirements for the bonds proposed to be issued in connection with the project or the amounts necessary to repay the original investment by the applicant in the project;

(b) Documentation of local financial commitment to support the project, including all public and private resources pledged or committed to the project and including a copy of any operating agreement or lease with substantial users of the eligible sports arena facility;

(c) For applications submitted on or after October 1, 2016, a map identifying the program area, including any unbuildable property within the program area or taken into account in adjusting the program area as described in subdivision (16)(a)(ii) of section 13-3102; and

(d) Any other project information deemed appropriate by the board.

(3) If the state assistance will be used to provide funding for promotion of the arts and cultural events, the application shall contain:

(a) A detailed description of the programs contemplated and how such programs will be in furtherance of the applicant's public use or public purpose if such funds are to be expended through one or more private organizations; and

(b) Any other program information deemed appropriate by the board.

(4) Upon receiving an application for state assistance, the board shall review the application and notify the applicant of any additional information needed for a proper evaluation of the application.

(5) Any state assistance received pursuant to the act shall be used only for public purposes.

Source: Laws 2010, LB779, § 10; Laws 2016, LB884, § 8; Laws 2021, LB39, § 4; Laws 2022, LB927, § 8; Laws 2023, LB727, § 27.
Operative date June 7, 2023.

13-3108 Sports Arena Facility Support Fund; created; investment; State Treasurer; duties; state assistance; use.

(1) The Sports Arena Facility Support 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.

(2)(a) Upon receiving the certification described in subsection (3) of section 13-3107, the State Treasurer shall transfer the amount certified to the fund.

(b) Upon receiving the quarterly certification described in subsection (4) of section 13-3107, the State Treasurer shall transfer the amount certified to the fund.

(3)(a) It is the intent of the Legislature to appropriate from the fund money to be distributed as provided in subsections (4) and (5) of this section to any political subdivision for which an application for state assistance under the Sports Arena Facility Financing Assistance Act has been approved an amount not to exceed seventy percent of the (i) state sales tax revenue collected by retailers doing business at eligible sports arena facilities on sales at such facilities, (ii) state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and (iii) new state sales tax revenue collected by nearby retailers and sourced under sections 77-2703.01 to 77-2703.04 to the program area.

(b) The amount to be appropriated for distribution as state assistance to a political subdivision under this subsection for any one year after the tenth year shall not exceed the highest such amount appropriated under subdivision (3)(a) of this section during any one year of the first ten years of such appropriation. If seventy percent of the state sales tax revenue as described in subdivision (3)(a) of this section exceeds the amount to be appropriated under this subdivision, such excess funds shall be transferred to the General Fund.

(4) The amount certified under subsection (3) of section 13-3107 shall be distributed as state assistance on or before April 15, 2014.

(5) Beginning in 2014, quarterly distributions and associated transfers of state assistance shall be made. Such quarterly distributions and transfers shall be based on the certifications provided under subsection (4) of section 13-3107 and shall occur within fifteen days after receipt of such certification.

(6) The total amount of state assistance approved for an eligible sports arena facility shall not exceed one hundred million dollars.

(7)(a) State assistance to the political subdivision shall no longer be available upon the retirement of the bonds issued to acquire, construct, improve, or equip the facility or any subsequent bonds that refunded the original issue or when state assistance reaches the amount determined under subsection (6) of this section, whichever comes first.

(b) If the state assistance will be used to provide funding for promotion of the arts and cultural events, such state assistance to the political subdivision shall no longer be available after ten years of funding or when state assistance reaches the amount determined under subsection (6) of this section, whichever comes first.

(8) State assistance shall not be used for an operating subsidy.

(9) The thirty percent of state sales tax revenue remaining after the appropriation and transfer in subsection (3) of this section shall be appropriated by the Legislature and transferred quarterly as follows:

(a) If the revenue relates to an eligible sports arena facility that is a sports complex and that is approved for state assistance under section 13-3106 on or after May 26, 2021, eighty-three percent of such revenue shall be transferred to the Support the Arts Cash Fund and seventeen percent of such revenue shall be transferred to the Convention Center Support Fund; and

(b) If the revenue relates to any other eligible sports arena facility, such revenue shall be transferred to the Civic and Community Center Financing Fund.

(10) Except as provided in subsection (11) of this section for a city of the primary class, any municipality that has applied for and received a grant of

assistance under the Civic and Community Center Financing Act shall not receive state assistance under the Sports Arena Facility Financing Assistance Act for the same project for which the grant was awarded under the Civic and Community Center Financing Act.

(11) A city of the primary class shall not be eligible to receive a grant of assistance from the Civic and Community Center Financing Act if the city has applied for and received a grant of assistance under the Sports Arena Facility Financing Assistance Act.

Source: Laws 2010, LB779, § 14; Laws 2011, LB297, § 9; Laws 2012, LB426, § 2; Laws 2014, LB867, § 3; Laws 2015, LB170, § 1; Laws 2016, LB884, § 10; Laws 2021, LB39, § 7; Laws 2022, LB927, § 9; Laws 2023, LB727, § 28.
Operative date June 7, 2023.

Cross References

Civic and Community Center Financing Act, see section 13-2701.

Nebraska Capital Expansion Act, see section 72-1269.

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

CHAPTER 14

CITIES OF THE METROPOLITAN CLASS

Article.

1. General Powers. 14-102.

ARTICLE 1

GENERAL POWERS

Section

- 14-102. Additional powers.

14-102 Additional powers.

In addition to the powers granted in section 14-101, cities of the metropolitan class shall have power by ordinance:

- (1) To levy any tax or special assessment authorized by law;
- (2) To provide a corporate seal for the use of the city, and also any official seal for the use of any officer, board, or agent of the city, whose duties require an official seal to be used. Such corporate seal shall be used in the execution of municipal bonds, warrants, conveyances, and other instruments and proceedings as required by law;
- (3) To provide all needful rules and regulations for the protection and preservation of health within the city, including providing for the enforcement of the use of water from public water supplies when the use of water from other sources shall be deemed unsafe;
- (4) To appropriate money and provide for the payment of debts and expenses of the city;
- (5) To adopt all such measures as may be deemed necessary for the accommodation and protection of strangers and the traveling public in person and property;
- (6) To punish and prevent the discharge of firearms, fireworks, or explosives of any description within the city, other than the discharge of firearms at a shooting range pursuant to the Nebraska Shooting Range Protection Act;
- (7) To regulate the inspection and sale of meats, flour, poultry, fish, milk, vegetables, and all other provisions or articles of food exposed or offered for sale in the city;
- (8) To require all elected or appointed officers to give bond and security for the faithful performance of their duties, except that no officer shall become bonded and secured upon the official bond of another or upon any bond executed to the city;
- (9) To require from any officer of the city at any time a report, in detail, of the transactions of his or her office or any matter connected with such office;
- (10) To provide for the prevention of cruelty to children and animals;
- (11) To regulate, license, or prohibit the running at large of dogs and other animals within the city as well as in areas within the extraterritorial zoning

jurisdiction of the city; to guard against injuries or annoyance from such dogs and other animals; and to authorize the destruction of such dogs and other animals when running at large contrary to the provisions of any ordinance. Any licensing provision shall comply with subsection (2) of section 54-603 for service animals;

(12) To provide for keeping sidewalks clean and free from obstructions and accumulations; to provide for the assessment and collection of taxes on real estate and for the sale and conveyance thereof; and to pay the expenses of keeping the sidewalk adjacent to such real estate clean and free from obstructions and accumulations as provided by law;

(13) To provide for the planting and protection of shade or ornamental and useful trees upon streets or boulevards; to assess the cost of such trees to the extent of benefits upon the abutting property as a special assessment; to provide for the protection of birds and animals and their nests; to provide for the trimming of trees located upon streets and boulevards or when the branches of trees overhang streets and boulevards when in the judgment of the mayor and city council such trimming is made necessary to properly light such street or boulevard or to furnish proper police protection; and to assess the cost of such trimming upon the abutting property as a special assessment;

(14) To provide for, regulate, and require the numbering or renumbering of houses along public streets or avenues; and to care for and control and to name and rename streets, avenues, parks, and squares within the city;

(15) To require weeds and worthless vegetation growing upon any lot or piece of ground within the city or its extraterritorial zoning jurisdiction to be cut and destroyed so as to abate any nuisance occasioned by such vegetation; to prohibit and control the throwing, depositing, or accumulation of litter on any lot or piece of ground within the city or its extraterritorial zoning jurisdiction; to require the removal of such litter so as to abate any nuisance occasioned thereby. If the owner fails to cut and destroy weeds and worthless vegetation or remove litter, or both, after notice as required by ordinance, the city may assess the cost of such destruction or removal upon the lots or lands as a special assessment. The required notice may be by publication in the official newspaper of the city and may be directed in general terms to the owners of lots and lands affected without naming such owners;

(16) To prohibit and regulate the running at large or the herding or driving of domestic animals, such as hogs, cattle, horses, sheep, goats, fowls, or animals of any kind or description within the corporate limits; to provide for the impounding of all animals running at large, herded, or driven contrary to such prohibition and regulations; and to provide for the forfeiture and sale of animals impounded to pay the expense of taking up, caring for, and selling such impounded animals, including the cost of advertising and fees of officers;

(17) To regulate the transportation of articles through the streets and to prevent injuries to the streets from overloaded vehicles;

(18) To prevent or regulate any amusement or practice having a tendency to annoy persons passing in the streets or on the sidewalks; and to regulate the use of vehicles propelled by steam, gas, electricity, or other motive power, operated on the streets of the city;

(19) To regulate or prohibit the transportation and keeping of gunpowder, oils, and other combustible and explosive articles;

(20) To regulate, license, or prohibit the sale of domestic animals or of goods, wares, and merchandise at public auction on the streets, alleys, highways, or any public ground within the city;

(21) To regulate and prevent the use of streets, sidewalks, and public grounds for signs, posts, awnings, awning posts, scales, or other like purposes; and to regulate and prohibit the exhibition or carrying or conveying of banners, placards, advertisements, or the distribution or posting of advertisements or handbills in the streets or public grounds or upon the sidewalks;

(22) To provide for the punishment of persons disturbing the peace by noise, intoxication, drunkenness, or fighting, or otherwise violating the public peace by indecent or disorderly conduct or by lewd and lascivious behavior;

(23) To provide for the punishment of vagrants, tramps, street beggars, prostitutes, disturbers of the peace, pickpockets, gamblers, burglars, thieves, persons who practice any game, trick, or device with intent to swindle, and trespassers upon private property;

(24) To prohibit, restrain, and suppress houses of prostitution, opium joints, gambling houses, prize fighting, dog fighting, cock fighting, and other disorderly houses and practices, all games and gambling, and all kinds of indecencies; to regulate and license or prohibit the keeping and use of billiard tables, bowling alleys, shooting galleries except as provided in the Nebraska Shooting Range Protection Act, and other similar places of amusement; and to prohibit and suppress all lotteries and gift enterprises of all kinds under whatsoever name carried on, except that nothing in this subdivision shall be construed to apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act;

(25) To make and enforce all police regulations for the good government, general welfare, health, safety, and security of the city and the citizens of the city in addition to the police powers expressly granted by law; in the exercise of the police power, to pass all needful and proper ordinances and impose fines, forfeitures, and penalties for the violation of any ordinance; to provide for the recovery, collection, and enforcement of such fines; and in default of payment to provide for confinement in the city or county prison or other place of confinement as may be provided by ordinance;

(26) To prevent immoderate driving on the street;

(27) To establish and maintain public libraries, art galleries, and museums and to provide the necessary grounds or buildings for such libraries, galleries, and museums; to purchase books, papers, maps, manuscripts, works of art, and objects of natural or of scientific curiosity and instruction for such libraries, galleries, and museums; to receive donations and bequests of money or property for such libraries, galleries, and museums in trust or otherwise; and to pass necessary bylaws and regulations for the protection and government of such libraries, art galleries, and museums;

(28) To erect, designate, establish, maintain, and regulate hospitals, houses of correction, jails, station houses, fire engine houses, asphalt repair plants, and other necessary buildings; to erect, designate, establish, maintain, and regulate plants for the removal, disposal, or recycling of garbage and refuse or to make contracts for garbage and refuse removal, disposal, or recycling, or all of the same; and to charge equitable fees for such removal, disposal, or recycling, or

all of the same, except as provided by law. The fees collected pursuant to this subdivision shall be credited to a single fund to be used exclusively by the city for the removal, disposal, or recycling of garbage and refuse, or all of the same, including any costs incurred for collecting the fee. Before any contract for such removal, disposal, or recycling is let, the city council shall make specifications for such contract, bids shall be advertised for as now provided by law, and the contract shall be let to the lowest and best bidder, who shall furnish bond to the city conditioned upon his or her carrying out the terms of the contract, the bond to be approved by the city council. Nothing in this section, and no contract or regulation made by the city council, shall be so construed as to prohibit any person, firm, or corporation engaged in any business in which garbage or refuse accumulates as a byproduct from selling, recycling, or otherwise disposing of his, her, or its garbage or refuse or hauling such garbage or refuse through the streets and alleys under such uniform and reasonable regulations as the city council may by ordinance prescribe for the removal and hauling of garbage or refuse;

(29) To erect and establish market houses and market places and to provide for the erection of all other useful and necessary buildings for the use of the city and for the protection and safety of all property owned by the city. Such market houses, market places, and buildings may be located on any street, alley, or public ground or on land purchased for such purpose;

(30) To prohibit the establishment of additional cemeteries within the limits of the city; to regulate the registration of births and deaths; to direct the keeping and returning of bills of mortality; and to impose penalties on physicians, sextons, and others for any default in the premises;

(31) To provide for the inspection of steam boilers, electric light appliances, pipefittings, and plumbings; to regulate their erection and construction; to appoint inspectors; and to declare their powers and duties, except as otherwise provided by law;

(32) To enact a fire code and regulate the erection of all buildings and other structures within the corporate limits; to provide for the removal of any buildings or structures or additions to buildings or structures erected contrary to such code or regulations and to provide for the removal of dangerous buildings; but no such code or regulation shall be suspended or modified by resolution, nor shall exceptions be made by ordinance or resolution in favor of any person, firm, or corporation or concerning any particular lot or building; to direct that when any building has been damaged by fire, decay, or otherwise, to the extent of fifty percent of the value of a similar new building above the foundation, shall be torn down or removed; to prescribe the manner of ascertaining such damages and to assess the cost of removal of any building erected or existing contrary to such code or regulations against the lot or real estate upon which such building or structure is located or shall be erected or to collect such costs from the owner of any such building or structure; and to enforce the collection of such costs by civil action in any court of competent jurisdiction;

(33) To regulate the construction, use, and maintenance of party walls, to prescribe and regulate the thickness, strength, and manner of constructing stone, brick, wood, or other buildings and the size and shape of brick and other material placed in such buildings; to prescribe and regulate the construction and arrangement of fire escapes and the placing of iron and metallic shutters

and doors in or on such fire escapes; to provide for the inspection of elevators; to prescribe, regulate, and provide for the inspection of all plumbing, pipefitting, or sewer connections in all houses or buildings now or hereafter erected; to regulate the size, number, and manner of construction of halls, doors, stairways, seats, aisles, and passageways of theaters and buildings of a public character, whether now built or hereafter to be built, so that there may be convenient, safe, and speedy exit in case of fire; to prevent the dangerous construction and condition of chimneys, fireplaces, hearths, stoves, stovepipes, ovens, boilers, and heating appliances used in or about any building and to cause such appliances to be removed or placed in safe condition when they are considered dangerous; to prevent the deposit of ashes in unsafe places and to cause such buildings and enclosures as may be in a dangerous state to be put in a safe condition; to prevent the disposing of and delivery or use in any building or other structure of unsuitable building material within the city limits and provide for the inspection of building materials; to provide for the abatement of dense volumes of smoke; to regulate the construction of areaways, stairways, and vaults and to regulate partition fences; and to enforce proper heating and ventilation of buildings used for schools or other buildings where large numbers of persons are liable to congregate;

(34) To regulate levees, depots and depot grounds, and places for storing freight and goods and to provide for and regulate the laying of tracks and the passage of railways through the streets, alleys, and public grounds of the city;

(35) To require the lighting of any railway within the city and to fix and determine the number, size, and style of all fixtures and apparatus necessary for such lighting and the points of location for such lampposts. If any company owning or operating such railways shall fail to comply with such requirements, the city council may cause such lighting to be done and may assess the expense of such lighting against such company. Such expense shall constitute a lien upon any real estate belonging to such company and lying within such city and may be collected in the same manner as taxes for general purposes;

(36) To provide for necessary publicity and to appropriate money for the purpose of advertising the resources and advantages of the city;

(37) To erect, establish, and maintain offstreet parking areas on publicly owned property located beneath any elevated segment of the National System of Interstate and Defense Highways or portion thereof, or public property title to which is in the city on May 12, 1971, or property owned by the city and used in conjunction with and incidental to city-operated facilities; and to regulate parking on such property by time limitation devices or by lease;

(38) To acquire, by the exercise of the power of eminent domain or otherwise, lease, purchase, construct, own, maintain, operate, or contract for the operation of public passenger transportation systems, excluding taxicabs, transportation network companies and railroad systems, including all property and facilities required for such public passenger transportation systems, within and without the limits of the city; to redeem such property from prior encumbrance in order to protect or preserve the interest of the city in such property; to exercise all powers granted by the Constitution of Nebraska and laws of the State of Nebraska or exercised by or pursuant to a home rule charter adopted pursuant thereto, including, but not limited to, receiving and accepting from the government of the United States or any agency thereof, from the State of Nebraska or any subdivision thereof, and from any person or corporation

donations, devises, gifts, bequests, loans, or grants for or in aid of the acquisition, operation, and maintenance of such public passenger transportation systems; to administer, hold, use, and apply such donations, devises, gifts, bequests, loans, or grants for the purposes for which such donations, devises, gifts, bequests, loans, or grants may have been made; to negotiate with employees and enter into contracts of employment; to employ by contract or otherwise individuals singularly or collectively; to enter into agreements authorized under the Interlocal Cooperation Act or the Joint Public Agency Act; to contract with an operating and management company for the purpose of operating, servicing, and maintaining any public passenger transportation systems the city shall acquire; and to exercise such other and further powers as may be necessary, incident, or appropriate to the powers of the city; and

(39) In addition to powers conferred elsewhere in the laws of the state, to implement and enforce an air pollution control program within the corporate limits of the city under subdivision (23) of section 81-1504 or subsection (1) of section 81-1528, which program shall be consistent with the federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq. Such powers shall include without limitation those involving injunctive relief, civil penalties, criminal fines, and burden of proof. Nothing in this section shall preclude the control of air pollution by resolution, ordinance, or regulation not in actual conflict with state air pollution control regulations.

Source: Laws 1921, c. 116, art. I, § 2, p. 398; C.S.1922, § 3489; C.S.1929, § 14-102; R.S.1943, § 14-102; Laws 1963, c. 314, § 1, p. 945; Laws 1971, LB 237, § 1; Laws 1972, LB 1274, § 1; Laws 1974, LB 768, § 1; Laws 1981, LB 501, § 1; Laws 1986, LB 1027, § 186; Laws 1991, LB 356, § 1; Laws 1991, LB 849, § 59; Laws 1992, LB 1257, § 63; Laws 1993, LB 138, § 61; Laws 1993, LB 623, § 1; Laws 1997, LB 814, § 2; Laws 1999, LB 87, § 59; Laws 2008, LB806, § 1; Laws 2009, LB430, § 1; Laws 2009, LB503, § 11; Laws 2015, LB266, § 1; Laws 2022, LB800, § 9; Laws 2023, LB77, § 2.

Effective date September 2, 2023.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.
Nebraska Bingo Act, see section 9-201.
Nebraska Lottery and Raffle Act, see section 9-401.
Nebraska Pickle Card Lottery Act, see section 9-301.
Nebraska Shooting Range Protection Act, see section 37-1301.
Nebraska Small Lottery and Raffle Act, see section 9-501.
State Lottery Act, see section 9-801.

CHAPTER 15

CITIES OF THE PRIMARY CLASS

Article.

2. General Powers. 15-255.

ARTICLE 2

GENERAL POWERS

Section

15-255. Public safety; measures to protect.

15-255 Public safety; measures to protect.

A city of the primary class may (1) prohibit riots, routs, noise, or disorderly assemblies, (2) prevent the discharge of firearms, rockets, powder, fireworks, or other dangerous and combustible material, (3) regulate and prevent the transportation of gunpowder or combustible articles, tar, pitch, resin, coal oil, benzine, turpentine, hemp, cotton, nitroglycerine, dynamite, petroleum or its products, or other explosives or inflammables, (4) regulate use of lights in stables, shops, or other places and building of bonfires, and (5) regulate and prohibit the piling of building material or any excavation or obstruction of the streets.

Source: Laws 1901, c. 16, § 129, LV, p. 141; R.S.1913, § 4465; C.S.1922, § 3850; C.S.1929, § 15-253; R.S.1943, § 15-255; Laws 2009, LB430, § 2; Laws 2020, LB1003, § 66; Laws 2023, LB77, § 3. Effective date September 2, 2023.

CHAPTER 16

CITIES OF THE FIRST CLASS

Article.

2. General Powers. 16-227.
3. Officers, Elections, Employees. 16-312.
4. Council and Proceedings. 16-404.
5. Contracts and Franchises. 16-503.

ARTICLE 2

GENERAL POWERS

Section

16-227. Riots; disorderly conduct; use of explosives; vagabonds; lights; bonfires; regulation.

16-227 Riots; disorderly conduct; use of explosives; vagabonds; lights; bonfires; regulation.

A city of the first class may (1) prevent and restrain riots, routs, noises, disturbances, breaches of the peace, or disorderly assemblies in any street, house, or place in the city, (2) regulate, punish, and prevent the discharge of firearms, rockets, powder, fireworks, or any other dangerous combustible material in the streets, lots, grounds, and alleys or about or in the vicinity of any buildings, (3) arrest, regulate, punish, or fine vagabonds, (4) regulate and prevent the transportation or storage of gunpowder or other explosive or combustible articles, tar, pitch, resin, coal oil, benzine, turpentine, hemp, cotton, nitroglycerine, dynamite, petroleum or any other productions thereof, and other materials of like nature, the use of lights in stables, shops, or other places, and the building of bonfires, and (5) regulate and prohibit the piling of building material or any excavation or obstruction in the street.

Source: Laws 1901, c. 18, § 48, XXXIV, p. 255; R.S.1913, § 4843; C.S. 1922, § 4011; C.S.1929, § 16-228; R.S.1943, § 16-227; Laws 2009, LB430, § 3; Laws 2016, LB704, § 31; Laws 2023, LB77, § 4.

Effective date September 2, 2023.

ARTICLE 3

OFFICERS, ELECTIONS, EMPLOYEES

Section

16-312. Mayor; powers and duties.

16-312 Mayor; powers and duties.

(1) The mayor of a city of the first class shall preside at all the meetings of the city council. The mayor may vote on any matter that requires either a majority vote of the city council members or a majority vote of all the elected members of the city council if (a) the mayor's vote is required due to the city council members being equally divided or (b) a majority of the city council members or

majority vote of all the elected members cannot be reached due to absence, vacancy, or abstention of one or more city council members. For purposes of such vote, the mayor is deemed to be a member of the city council.

(2) The mayor shall have the superintending control of all the officers and affairs of the city and shall take care that the ordinances of the city and the provisions of law relating to cities of the first class are complied with. The mayor may administer oaths and shall sign the commissions and appointments of all the officers appointed in the city.

Source: Laws 1901, c. 18, § 19, p. 234; R.S.1913, § 4878; C.S.1922, § 4046; C.S.1929, § 16-308; R.S.1943, § 16-312; Laws 1957, c. 55, § 2, p. 266; Laws 1980, LB 662, § 1; Laws 1989, LB 790, § 1; Laws 2016, LB704, § 56; Laws 2019, LB194, § 7; Laws 2023, LB531, § 5.

Operative date June 7, 2023.

ARTICLE 4

COUNCIL AND PROCEEDINGS

Section

16-404. City council; ordinances, resolutions, or orders; procedure for passage; vote of mayor, when; amendments; revision ordinances.

16-404 City council; ordinances, resolutions, or orders; procedure for passage; vote of mayor, when; amendments; revision ordinances.

(1) All ordinances and resolutions or orders for the appropriation or payment of money in a city of the first class shall require for their passage or adoption the concurrence of a majority of all elected members of the city council. The mayor may vote on any such matter if (a) the mayor's vote is required due to the city council members being equally divided or (b) a majority vote of all the elected members cannot be reached due to absence, vacancy, or abstention of one or more city council members. For purposes of such vote, the mayor is deemed to be a member of the city council.

(2)(a) Ordinances of a general or permanent nature in a city of the first class shall be read by title on three different days unless three-fourths of the city council members vote to suspend this requirement, except that in a city having a commission plan of government such requirement may be suspended by a three-fifths majority vote.

(b) Regardless of the form of government, such requirement shall not be suspended (i) for any ordinance for the annexation of territory or the redrawing of boundaries for city council election districts or wards or (ii) as otherwise provided by law.

(c) In case such requirement is suspended, the ordinances shall be read by title or number and then moved for final passage.

(d) Three-fourths of the city council members may require a reading of any such ordinance in full before enactment under either procedure set out in this section, except that in a city having a commission plan of government, such reading may be required by a three-fifths majority vote.

(3) Ordinances in a city of the first class shall contain no subject which is not clearly expressed in the title, and, except as provided in section 19-915, no ordinance or section thereof shall be revised or amended unless the new

ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that:

(a) For an ordinance revising all the ordinances of a city of the first class, the only title necessary shall be An ordinance of the city of, revising all the ordinances of the city. Under such title all the ordinances may be revised in sections and chapters or otherwise, may be corrected, added to, and any part suppressed, and may be repealed with or without a saving clause as to the whole or any part without other title; and

(b) For an ordinance used solely to revise ordinances or code sections or to enact new ordinances or code sections in order to adopt statutory changes made by the Legislature which are specific and mandatory and bring the ordinances or code sections into conformance with state law, the title need only state that the ordinance revises those ordinances or code sections affected by or enacts ordinances or code sections generated by legislative changes. Under such title, all such ordinances or code sections may be revised, repealed, or enacted in sections and chapters or otherwise by a single ordinance without other title.

Source: Laws 1901, c. 18, § 37, p. 240; Laws 1903, c. 19, § 5, p. 235; R.S.1913, § 4897; C.S.1922, § 4065; C.S.1929, § 16-404; R.S. 1943, § 16-404; Laws 1961, c. 43, § 1, p. 174; Laws 1969, c. 108, § 2, p. 510; Laws 1972, LB 1235, § 1; Laws 1975, LB 172, § 1; Laws 1980, LB 662, § 2; Laws 1989, LB 790, § 2; Laws 1990, LB 966, § 1; Laws 1994, LB 630, § 2; Laws 2003, LB 365, § 1; Laws 2016, LB704, § 73; Laws 2018, LB865, § 3; Laws 2019, LB193, § 5; Laws 2019, LB194, § 25; Laws 2021, LB131, § 11; Laws 2021, LB285, § 3; Laws 2023, LB531, § 6.
Operative date June 7, 2023.

Cross References

For other provisions for revision of ordinances, see section 16-247.

**ARTICLE 5
CONTRACTS AND FRANCHISES**

Section

16-503. Contracts; concurrence of majority of city council required; vote of mayor, when; record.

16-503 Contracts; concurrence of majority of city council required; vote of mayor, when; record.

On the passage or adoption of every resolution or order to enter into a contract, or accepting of work done under contract, by the mayor or city council of a city of the first class, the yeas and nays shall be called and entered upon the record. To pass or adopt any bylaw or ordinance or any such resolution or order, a concurrence of a majority of all elected members of the city council shall be required. The mayor may vote on any such matter if (1) the mayor’s vote is required due to the city council members being equally divided or (2) a majority vote of all the elected members of the city council cannot be reached due to absence, vacancy, or abstention of one or more city council members. For purposes of such vote, the mayor is deemed to be a member of the city council. The requirements of a roll call or viva voce vote shall be

satisfied by a city which utilizes an electronic voting device which allows the yeas and nays of each city council member to be readily seen by the public.

Source: Laws 1901, c. 18, § 34, p. 239; R.S.1913, § 4903; C.S.1922, § 4071; C.S.1929, § 16-503; R.S.1943, § 16-503; Laws 1961, c. 43, § 2, p. 174; Laws 1975, LB 172, § 2; Laws 1978, LB 609, § 1; Laws 1980, LB 662, § 3; Laws 1988, LB 625, § 1; Laws 2016, LB704, § 78; Laws 2019, LB194, § 30; Laws 2023, LB531, § 7. Operative date June 7, 2023.

CHAPTER 17

CITIES OF THE SECOND CLASS AND VILLAGES

Article.

1. Laws Applicable Only to Cities of the Second Class. 17-110.
5. General Grant of Power. 17-556.
6. Elections, Officers, Ordinances.
 - (c) Ordinances. 17-614.

ARTICLE 1

LAWS APPLICABLE ONLY TO CITIES OF THE SECOND CLASS

Section

17-110. Mayor; general duties and powers.

17-110 Mayor; general duties and powers.

(1) The mayor shall preside at all meetings of the city council of a city of the second class. The mayor may vote on any matter that requires either a majority vote of the city council or a majority vote of all the elected members of the city council if (a) the mayor's vote is required due to the city council members being equally divided or (b) a majority of the city council members or majority vote of all the elected members cannot be reached due to absence, vacancy, or abstention of one or more city council members. For purposes of such vote, the mayor is deemed to be a member of the city council.

(2) The mayor shall have superintendence and control of all the officers and affairs of the city and shall take care that the ordinances of the city and all laws governing cities of the second class are complied with.

Source: Laws 1879, § 10, p. 195; R.S.1913, § 5002; C.S.1922, § 4171; C.S.1929, § 17-110; R.S.1943, § 17-110; Laws 1957, c. 55, § 3, p. 266; Laws 1975, LB 172, § 3; Laws 1980, LB 662, § 4; Laws 2013, LB113, § 1; Laws 2017, LB133, § 8; Laws 2023, LB531, § 8.

Operative date June 7, 2023.

ARTICLE 5

GENERAL GRANT OF POWER

Section

17-556. Public safety; firearms; explosives; riots; regulation.

17-556 Public safety; firearms; explosives; riots; regulation.

Cities of the second class and villages shall have the power to (1) prevent and restrain riots, routs, noises, disturbances, or disorderly assemblages, (2) regulate, prevent, restrain, or remove nuisances and to designate what shall be considered a nuisance, (3) regulate, punish, and prevent the discharge of firearms, rockets, powder, fireworks, or any other dangerous combustible material in the streets, lots, grounds, alleys, or about or in the vicinity of any buildings, and (4) arrest, regulate, punish, or fine all vagrants.

Source: Laws 1879, § 69, XXV, p. 216; Laws 1881, c. 23, § 8, XXV, p. 184; Laws 1885, c. 20, § 1, XXV, p. 175; Laws 1887, c. 12, § 1, XXV, p.

303; R.S.1913, § 5130; C.S.1922, § 4305; C.S.1929, § 17-454; R.S.1943, § 17-556; Laws 2009, LB430, § 4; Laws 2017, LB133, § 180; Laws 2023, LB77, § 5.
Effective date September 2, 2023.

**ARTICLE 6
ELECTIONS, OFFICERS, ORDINANCES**

(c) ORDINANCES

Section
17-614. Ordinances; how enacted; title.

(c) ORDINANCES

17-614 Ordinances; how enacted; title.

(1)(a) All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all elected members of the city council in a city of the second class or village board of trustees. The mayor of a city of the second class may vote on any such matter if (i) the mayor’s vote is required due to the city council members being equally divided or (ii) a majority vote of all the elected members of the city council cannot be reached due to absence, vacancy, or abstention of one or more city council members. For purposes of such vote, the mayor is deemed to be a member of the city council.

(b) Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the city council or village board of trustees vote to suspend this requirement. Such requirement shall not be suspended (i) for any ordinance for the annexation of territory or the redrawing of boundaries for city council or village board of trustees election districts or wards or (ii) as otherwise provided by law.

(c) In case such requirement is suspended, the ordinances shall be read by title and then moved for final passage.

(d) Three-fourths of the city council or village board of trustees may require a reading of any such ordinance in full before enactment under either procedure set out in this section.

(2) Ordinances shall contain no subject which is not clearly expressed in the title, and, except as provided in section 19-915, no ordinance or section of such ordinance shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that:

(a) For an ordinance revising all the ordinances of the city of the second class or village, the title need only state that the ordinance revises all the ordinances of the city or village. Under such title all the ordinances may be revised in sections and chapters or otherwise, may be corrected, added to, and any part suppressed, and may be repealed with or without a saving clause as to the whole or any part without other title; and

(b) For an ordinance used solely to revise ordinances or code sections or to enact new ordinances or code sections in order to adopt statutory changes made by the Legislature which are specific and mandatory and bring the ordinances or code sections into conformance with state law, the title need only state that the ordinance revises those ordinances or code sections affected by or

enacts ordinances or code sections generated by legislative changes. Under such title, all such ordinances or code sections may be revised, repealed, or enacted in sections and chapters or otherwise by a single ordinance without other title.

Source: Laws 1879, § 79, p. 223; R.S.1913, § 5154; C.S.1922, § 4329; Laws 1929, c. 47, § 1, p. 202; C.S.1929, § 17-520; R.S.1943, § 17-614; Laws 1969, c. 108, § 3, p. 510; Laws 1972, LB 1235, § 2; Laws 1994, LB 630, § 3; Laws 2001, LB 484, § 2; Laws 2003, LB 365, § 2; Laws 2013, LB113, § 2; Laws 2017, LB133, § 213; Laws 2018, LB865, § 4; Laws 2021, LB131, § 14; Laws 2021, LB285, § 4; Laws 2023, LB531, § 9.
Operative date June 7, 2023.

CHAPTER 18

CITIES AND VILLAGES; LAWS APPLICABLE TO ALL

Article.

- 17. Miscellaneous. 18-1703.
- 21. Community Development. 18-2101 to 18-2157.
- 24. Municipal Cooperative Financing. 18-2441.
- 27. Municipal Economic Development. 18-2709.

ARTICLE 17 MISCELLANEOUS

Section

- 18-1703. Transferred to section 13-330.

18-1703 Transferred to section 13-330.

ARTICLE 21 COMMUNITY DEVELOPMENT

Section

- 18-2101. Act, how cited.
- 18-2101.02. Extremely blighted area; governing body; duties; review; public hearing; period of validity.
- 18-2105. Formulation of workable program; disaster assistance; effect.
- 18-2109. Redevelopment plan; preparation; requirements; planning commission or board; public hearing; notice; governing body; public hearing; notice; resolution.
- 18-2117.01. Plan; report to Property Tax Administrator; contents; compilation of data.
- 18-2117.02. Redevelopment projects; annual report; contents.
- 18-2142.05. Construction of workforce housing; governing body; duties.
- 18-2147. Ad valorem tax; division authorized; limitations; qualified allocation plan.
- 18-2155. Plan; expedited review; eligibility; limit; procedure; projects; use of property taxes; requirements; revocation of expedited reviews; effect.
- 18-2156. Substandard and blighted area; extremely blighted area; review; governing body; powers; remove designation; resolution; effect.
- 18-2157. Substandard and blighted area; extremely blighted area; designation for more than thirty years; analysis of redevelopment projects; when; applicability.

18-2101 Act, how cited.

Sections 18-2101 to 18-2157 shall be known and may be cited as the Community Development Law.

Source: Laws 1951, c. 224, § 1, p. 797; R.R.S.1943, § 14-1601; Laws 1957, c. 52, § 1, p. 247; R.R.S.1943, § 19-2601; Laws 1973, LB 299, § 1; Laws 1997, LB 875, § 2; Laws 2007, LB562, § 1; Laws 2013, LB66, § 1; Laws 2018, LB496, § 1; Laws 2018, LB874, § 4; Laws 2019, LB86, § 1; Laws 2020, LB1021, § 1; Laws 2023, LB531, § 10.

Operative date June 7, 2023.

18-2101.02 Extremely blighted area; governing body; duties; review; public hearing; period of validity.

(1) For any city that (a) intends to carry out a redevelopment project which will involve the construction of workforce housing in an extremely blighted area as authorized under subdivision (28)(g) of section 18-2103, (b) intends to prepare a redevelopment plan that will divide ad valorem taxes for a period of more than fifteen years but not more than twenty years as provided in subdivision (4)(a) of section 18-2147, (c) intends to declare an area as an extremely blighted area for purposes of funding decisions under subdivision (1)(b) of section 58-708, or (d) intends to declare an area as an extremely blighted area in order for individuals purchasing residences in such area to qualify for the income tax credit authorized in subsection (7) of section 77-2715.07, the governing body of such city shall first declare, by resolution adopted after the public hearings required under this section, such area to be an extremely blighted area.

(2) Prior to making such declaration, the governing body of the city shall conduct or cause to be conducted a study or an analysis on whether the area is extremely blighted and shall submit the question of whether such area is extremely blighted to the planning commission or board of the city for its review and recommendation. The planning commission or board shall hold a public hearing on the question after giving notice of the hearing as provided in section 18-2115.01. The planning commission or board shall submit its written recommendations to the governing body of the city within thirty days after the public hearing.

(3) Upon receipt of the recommendations of the planning commission or board, or if no recommendations are received within thirty days after the public hearing required under subsection (2) of this section, the governing body shall hold a public hearing on the question of whether the area is extremely blighted after giving notice of the hearing as provided in section 18-2115.01. At the public hearing, all interested parties shall be afforded a reasonable opportunity to express their views respecting the proposed declaration. After such hearing, the governing body of the city may make its declaration.

(4) Copies of each study or analysis conducted pursuant to subsection (2) of this section shall be posted on the city's public website or made available for public inspection at a location designated by the city.

(5) The study or analysis required under subsection (2) of this section may be conducted in conjunction with the study or analysis required under section 18-2109. The hearings required under this section may be held in conjunction with the hearings required under section 18-2109.

(6) Notwithstanding any other provisions of the Community Development Law, the designation of an area as an extremely blighted area pursuant to this section shall be valid for a period of no less than twenty-five years from the effective date of the resolution declaring such area to be an extremely blighted area, except that such designation may be removed prior to the end of such period pursuant to section 18-2156.

Source: Laws 2019, LB86, § 2; Laws 2020, LB1003, § 172; Laws 2021, LB25, § 1; Laws 2022, LB1065, § 1; Laws 2023, LB531, § 11.
Operative date June 7, 2023.

18-2105 Formulation of workable program; disaster assistance; effect.

(1) The governing body of a city or an authority at its direction for the purposes of the Community Development Law may formulate for the city a workable program for utilizing appropriate private and public resources to eliminate or prevent the development or spread of urban blight, to encourage needed urban rehabilitation, to provide for the redevelopment of substandard and blighted areas, or to undertake any or all of such activities or other feasible activities as may be suitably employed to achieve the objectives of such workable program. Such workable program may include, without limitation, provision for (a) the prevention of the spread of blight into areas of the city which are free from blight through diligent enforcement of housing, zoning, and occupancy controls and standards; (b) the rehabilitation or conservation of substandard and blighted areas or portions of such areas by replanning, removing congestion, and providing parks, playgrounds, and other public improvements by encouraging voluntary rehabilitation and by compelling the repair and rehabilitation of deteriorated or deteriorating structures; and (c) the clearance and redevelopment of substandard and blighted areas or portions of such areas.

(2) As part of a workable program formulated under subsection (1) of this section, the governing body of a city or an authority may develop guidelines for the consideration or approval of redevelopment projects that are financed in whole or in part through the division of taxes as provided in section 18-2147. Such guidelines may establish general goals and priorities for the use of funds from such division of taxes or limitations or restrictions on the use of funds from such division of taxes within such city.

(3) Notwithstanding any other provisions of the Community Development Law, where the local governing body certifies that an area is in need of redevelopment or rehabilitation as a result of flood, fire, hurricane, earthquake, storm, or other catastrophe respecting which the Governor of the state has certified the need for disaster assistance under federal law, the local governing body may approve a redevelopment plan and a redevelopment project with respect to such area without regard to the provisions of the Community Development Law requiring a general plan for the city and notice and public hearing or findings other than as provided in this section.

Source: Laws 1951, c. 224, § 4(2), p. 800; R.R.S.1943, § 14-1605; Laws 1957, c. 52, § 6, p. 253; Laws 1961, c. 61, § 5, p. 231; R.R.S. 1943, § 19-2605; Laws 1997, LB 875, § 6; Laws 2023, LB531, § 12.

Operative date June 7, 2023.

18-2109 Redevelopment plan; preparation; requirements; planning commission or board; public hearing; notice; governing body; public hearing; notice; resolution.

(1) A redevelopment plan for a redevelopment project area shall not be prepared and the governing body of the city in which such area is located shall not approve a redevelopment plan unless the governing body has, by resolution adopted after the public hearings required under this section, declared such area to be a substandard and blighted area in need of redevelopment.

(2) Prior to making such declaration, the governing body of the city shall conduct or cause to be conducted a study or an analysis on whether the area is substandard and blighted and shall submit the question of whether such area is

substandard and blighted to the planning commission or board of the city for its review and recommendation. The planning commission or board shall hold a public hearing on the question after giving notice of the hearing as provided in section 18-2115.01. The planning commission or board shall submit its written recommendations to the governing body of the city within thirty days after the public hearing.

(3) Upon receipt of the recommendations of the planning commission or board, or if no recommendations are received within thirty days after the public hearing required under subsection (2) of this section, the governing body shall hold a public hearing on the question of whether the area is substandard and blighted after giving notice of the hearing as provided in section 18-2115.01. At the public hearing, all interested parties shall be afforded a reasonable opportunity to express their views respecting the proposed declaration. After such hearing, the governing body of the city may adopt a resolution declaring that substandard and blighted conditions exist in the area under study. After the governing body has declared that substandard and blighted conditions exist in the area under study, the governing body may, by one or more resolutions, declare such area or any portion of such area to be a substandard and blighted area without further public hearing.

(4) Copies of each substandard and blighted study or analysis conducted pursuant to subsection (2) of this section shall be posted on the city's public website or made available for public inspection at a location designated by the city.

Source: Laws 1951, c. 224, § 6(2), p. 805; R.R.S.1943, § 14-1609; Laws 1957, c. 52, § 8, p. 257; Laws 1961, c. 61, § 7, p. 236; R.R.S. 1943, § 19-2609; Laws 1997, LB 875, § 8; Laws 2018, LB874, § 10; Laws 2020, LB1003, § 174; Laws 2020, LB1021, § 3; Laws 2022, LB1065, § 2; Laws 2023, LB531, § 13.
Operative date June 7, 2023.

18-2117.01 Plan; report to Property Tax Administrator; contents; compilation of data.

(1)(a) On or before December 1 each year, each city which has approved one or more redevelopment plans which are financed in whole or in part through the division of taxes as provided in section 18-2147 shall provide a report to the Property Tax Administrator on each such redevelopment plan which includes the following information:

(i) A copy of the redevelopment plan and any amendments thereto, including the date upon which the redevelopment plan was approved, the effective date for dividing the ad valorem tax as provided to the county assessor pursuant to subsection (6) of section 18-2147, and the location and boundaries of the property in the redevelopment project; and

(ii) A short narrative description of the type of development undertaken by the city or village with the financing and the type of business or commercial activity locating within the redevelopment project area as a result of the redevelopment project.

(b) If a city has approved one or more redevelopment plans using an expedited review under section 18-2155, the city may file a single report under this subsection for all such redevelopment plans.

(2) The report required under subsection (1) of this section must be filed each year, regardless of whether the information in the report has changed, except that a city is not required to refile a copy of the redevelopment plan or an amendment thereto if such copy or amendment has previously been filed.

(3) The Property Tax Administrator shall compile a report for each active redevelopment project, based upon information provided by the cities pursuant to subsection (1) of this section and information reported by the county assessor or county clerk on the certificate of taxes levied pursuant to section 77-1613.01. Each report shall be electronically transmitted to the Clerk of the Legislature not later than March 1 each year. The report may include any recommendations of the Property Tax Administrator as to what other information should be included in the report from the cities so as to facilitate analysis of the uses, purposes, and effectiveness of tax-increment financing and the process for its implementation or to streamline the reporting process provided for in this section to eliminate unnecessary paperwork.

Source: Laws 1997, LB 875, § 12; Laws 1999, LB 774, § 2; Laws 2006, LB 808, § 1; Laws 2012, LB782, § 19; Laws 2018, LB874, § 15; Laws 2020, LB1021, § 13; Laws 2023, LB531, § 14.
Operative date June 7, 2023.

18-2117.02 Redevelopment projects; annual report; contents.

On or before May 1 of each year, each authority, or such other division or department of the city as designated by the governing body, shall compile information regarding the approval and progress of redevelopment projects that are financed in whole or in part through the division of taxes as provided in section 18-2147 and report such information to the governing body of the city and to the governing body of each county, school district, community college area, educational service unit, and natural resources district whose property taxes are affected by such division of taxes. The report shall include, but not be limited to, the following information:

(1) The total number of active redevelopment projects within the city that have been financed in whole or in part through the division of taxes as provided in section 18-2147;

(2) The total estimated project costs for all such redevelopment projects;

(3) The estimated amount of outstanding indebtedness related to each such redevelopment project and an estimated date by which such indebtedness is expected to be paid in full;

(4) A comparison between the initial projected valuation of property included in each such redevelopment project as described in the redevelopment contract or, for redevelopment projects approved using an expedited review under section 18-2155, in the redevelopment plan and the assessed value of the property included in each such redevelopment project as of January 1 of the year of the report;

(5) The number of such redevelopment projects approved by the governing body in the previous calendar year;

(6) Information specific to each such redevelopment project approved by the governing body in the previous calendar year, including the project area, project type, amount of financing approved, and total estimated project costs;

§ 18-2117.02 CITIES AND VILLAGES; LAWS APPLICABLE TO ALL

(7) The number of redevelopment projects for which financing has been paid in full during the previous calendar year and for which taxes are no longer being divided pursuant to section 18-2147; and

(8) The percentage of the city that has been designated as blighted.

Source: Laws 2018, LB874, § 16; Laws 2020, LB1003, § 177; Laws 2020, LB1021, § 14; Laws 2023, LB531, § 15.
Operative date June 7, 2023.

18-2142.05 Construction of workforce housing; governing body; duties.

Prior to approving a redevelopment project that expressly carries out the construction of workforce housing, a governing body shall (1) receive a housing study which is current within twenty-four months for any city of the metropolitan class or current within sixty months for any other city or village, (2) prepare an incentive plan for construction of housing in the municipality targeted to house existing or new workers, (3) hold a public hearing on such incentive plan with notice which complies with the conditions set forth in section 18-2115.01, and (4) after the public hearing find that such incentive plan is necessary to prevent the spread of blight and substandard conditions within the municipality, will promote additional safe and suitable housing for individuals and families employed in the municipality, and will not result in the unjust enrichment of any individual or company. A public hearing held under this section shall be separate from any public hearing held under section 18-2115.

Source: Laws 2018, LB496, § 3; Laws 2020, LB1003, § 179; Laws 2023, LB531, § 16.
Operative date June 7, 2023.

18-2147 Ad valorem tax; division authorized; limitations; qualified allocation plan.

(1) Any redevelopment plan as originally approved or as later modified pursuant to section 18-2117 may contain a provision that any ad valorem tax levied upon real property, or any portion thereof, in a redevelopment project for the benefit of any public body shall be divided, for the applicable period described in subsection (4) of this section, as follows:

(a) That portion of the ad valorem tax which is produced by the levy at the rate fixed each year by or for each such public body upon the redevelopment project valuation shall be paid into the funds of each such public body in the same proportion as are all other taxes collected by or for the body. When there is not a redevelopment project valuation on a parcel or parcels, the county assessor shall determine the redevelopment project valuation based upon the fair market valuation of the parcel or parcels as of January 1 of the year prior to the year that the ad valorem taxes are to be divided. The county assessor shall provide written notice of the redevelopment project valuation to the authority as defined in section 18-2103 and the owner. The authority or owner may protest the valuation to the county board of equalization within thirty days after the date of the valuation notice. All provisions of section 77-1502 except dates for filing of 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 decide any protest filed pursuant to this section within thirty days after the filing of the protest. The county clerk shall mail a copy of the decision made by

the county board of equalization on protests pursuant to this section to the authority or owner within seven days after the board's decision. Any decision of the county board of equalization may be appealed to the Tax Equalization and Review Commission, in accordance with section 77-5013, within thirty days after the date of the decision;

(b) That portion of the ad valorem tax on real property, as provided in the redevelopment contract, bond resolution, or redevelopment plan, as applicable, in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the authority to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans, notes, or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such authority for financing or refinancing, in whole or in part, the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the authority shall so notify the county assessor and county treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies. An authority may use a single fund for purposes of this subdivision for all redevelopment projects or may use a separate fund for each redevelopment project; and

(c) Any interest and penalties due for delinquent taxes shall be paid into the funds of each public body in the same proportion as are all other taxes collected by or for the public body.

(2) To the extent that a redevelopment plan authorizes the division of ad valorem taxes levied upon only a portion of the real property included in such redevelopment plan, any improvements funded by such division of taxes shall be related to the redevelopment plan that authorized such division of taxes.

(3)(a) For any redevelopment plan located in a city of the metropolitan class that includes a division of taxes, as provided in this section, that produces, in whole or in part, funds to be used directly or indirectly for (i) new construction, rehabilitation, or acquisition of housing for households with annual incomes below the area median income for households and located within six hundred yards of a public passenger streetcar or (ii) new construction, rehabilitation, or acquisition of single-family housing or condominium housing used as primary residences for individuals with annual incomes below the area median income for individuals, such housing shall be deemed related to the redevelopment plan that authorized such division of taxes regardless of whether such housing is or will be located on real property within such redevelopment plan, as long as such housing supports activities occurring on or identified in such redevelopment plan.

(b) During each fiscal year in which the funds described in subdivision (a) of this subsection are available, the authority and city shall make best efforts to allocate not less than thirty percent of such funds to single-family housing deemed related to the redevelopment plan described under such subdivision.

(c) In selecting projects to receive funding, the authority and city 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.

(4)(a) For any redevelopment plan for which more than fifty percent of the property in the redevelopment project area has been declared an extremely blighted area in accordance with section 18-2101.02, ad valorem taxes shall be

divided for a period not to exceed twenty years after the effective date as identified in the project redevelopment contract or in the resolution of the authority authorizing the issuance of bonds pursuant to section 18-2124.

(b) For all other redevelopment plans, ad valorem taxes shall be divided for a period not to exceed fifteen years after the effective date as identified in the project redevelopment contract, in the resolution of the authority authorizing the issuance of bonds pursuant to section 18-2124, or in the redevelopment plan, whichever is applicable.

(5) The effective date of a provision dividing ad valorem taxes as provided in subsection (4) of this section shall not occur until such time as the real property in the redevelopment project is within the corporate boundaries of the city. This subsection shall not apply to a redevelopment project involving a formerly used defense site as authorized in section 18-2123.01.

(6) Beginning August 1, 2006, all notices of the provision for dividing ad valorem taxes shall be sent by the authority to the county assessor on forms prescribed by the Property Tax Administrator. The notice shall be sent to the county assessor on or before August 1 of the year of the effective date of the provision. Failure to satisfy the notice requirement of this section shall result in the taxes, for all taxable years affected by the failure to give notice of the effective date of the provision, remaining undivided and being paid into the funds for each public body receiving property taxes generated by the property in the redevelopment project. However, the redevelopment project valuation for the remaining division of ad valorem taxes in accordance with subdivisions (1)(a) and (b) of this section shall be the last certified valuation for the taxable year prior to the effective date of the provision to divide the taxes for the remaining portion of the twenty-year or fifteen-year period pursuant to subsection (4) of this section.

Source: Laws 1979, LB 158, § 10; Laws 1997, LB 875, § 14; Laws 1999, LB 194, § 2; Laws 2002, LB 994, § 2; Laws 2006, LB 808, § 2; Laws 2006, LB 1175, § 2; Laws 2011, LB54, § 1; Laws 2013, LB66, § 4; Laws 2018, LB874, § 34; Laws 2020, LB1021, § 15; Laws 2021, LB25, § 2; Laws 2022, LB1065, § 3; Laws 2023, LB531, § 17.

Operative date June 7, 2023.

18-2155 Plan; expedited review; eligibility; limit; procedure; projects; use of property taxes; requirements; revocation of expedited reviews; effect.

(1) The governing body of a city may elect by resolution to allow expedited reviews of redevelopment plans that meet the requirements of subsection (2) of this section. A redevelopment plan that receives an expedited review pursuant to this section shall be exempt from the requirements of sections 18-2111 to 18-2115 and 18-2116.

(2) A redevelopment plan is eligible for expedited review under this section if:

(a) The redevelopment plan includes only one redevelopment project;

(b) The redevelopment project involves:

(i) The repair, rehabilitation, or replacement of an existing structure that has been within the corporate limits of the city for at least sixty years and is located within a substandard and blighted area; or

(ii) The redevelopment of a vacant lot that is located within a substandard and blighted area that has been within the corporate limits of the city for at least sixty years and has been platted for at least sixty years;

(c) The redevelopment project is located in a county with a population of less than one hundred thousand inhabitants; and

(d) The assessed value of the property within the redevelopment project area when the project is complete is estimated to be no more than:

(i) Three hundred fifty thousand dollars for a redevelopment project involving a single-family residential structure;

(ii) One million five hundred thousand dollars for a redevelopment project involving a multi-family residential structure or commercial structure; or

(iii) Ten million dollars for a redevelopment project involving the revitalization of a structure included in the National Register of Historic Places.

(3) The governing body of a city that elects to allow expedited reviews of redevelopment plans under this section may establish by resolution an annual limit on the number of such redevelopment plans that may be approved by the governing body.

(4) The expedited review shall consist of the following steps:

(a) A redeveloper shall prepare the redevelopment plan using a standard form developed by the Department of Economic Development. The form shall include (i) the existing uses and condition of the property within the redevelopment project area, (ii) the proposed uses of the property within the redevelopment project area, (iii) the number of years the existing structure has been within the corporate limits of the city or the number of years that the vacant lot has been platted within the corporate limits of the city, whichever is applicable, (iv) the current assessed value of the property within the redevelopment project area, (v) the increase in the assessed value of the property within the redevelopment project area that is estimated to occur as a result of the redevelopment project, (vi) an indication of whether the redevelopment project will be financed in whole or in part through the division of taxes as provided in section 18-2147, and (vii) the agreed-upon costs of the redevelopment project;

(b) The redeveloper shall submit the redevelopment plan directly to the governing body along with an application fee in an amount set by the governing body, not to exceed fifty dollars. Such application fee shall be separate from any fees for building permits or other permits needed for the project; and

(c) The governing body shall determine whether to approve or deny the redevelopment plan within thirty days after submission of the plan. A redevelopment plan may be denied if:

(i) The redevelopment plan does not meet the requirements of subsection (2) of this section;

(ii) Approval of the redevelopment plan would exceed the annual limit established under subsection (3) of this section; or

(iii) The redevelopment plan is inconsistent with the city's comprehensive development plan.

(5) Each city may select the appropriate employee or department to conduct expedited reviews pursuant to this section.

(6) For any approved redevelopment project that is financed in whole or in part through the division of taxes as provided in section 18-2147:

(a) The authority shall incur indebtedness related to the redevelopment project which shall not exceed the lesser of the agreed-upon costs of the redevelopment project or the amount estimated to be generated over a fifteen-year period from the portion of taxes mentioned in subdivision (1)(b) of section 18-2147. Such indebtedness shall not create a general obligation on behalf of the authority or the city in the event that the amount generated over a fifteen-year period from the portion of taxes mentioned in subdivision (1)(b) of section 18-2147 does not equal the costs of the agreed-upon work to repair, rehabilitate, or replace the structure or to redevelop the vacant lot as provided in the redevelopment plan;

(b) Upon completion of the agreed-upon work to repair, rehabilitate, or replace the structure or to redevelop the vacant lot as provided in the redevelopment plan, the redeveloper shall notify the county assessor of such completion; and

(c) The county assessor shall then determine:

(i) Whether the redevelopment project is complete. Redevelopment projects must be completed within two years after the redevelopment plan is approved under this section; and

(ii) The assessed value of the property within the redevelopment project area.

(7) After the county assessor makes the determinations required under subdivision (6)(c) of this section, the county assessor shall use a standard certification form developed by the Department of Revenue to certify to the authority:

(a) That improvements have been made and completed;

(b) That a valuation increase has occurred;

(c) The amount of the valuation increase; and

(d) That the valuation increase was due to the improvements made.

(8) Once the county assessor has made the certification required under subsection (7) of this section, the authority may begin to use the portion of taxes mentioned in subdivision (1)(b) of section 18-2147 to pay the indebtedness incurred by the authority under subdivision (6)(a) of this section.

(9) The payments shall be remitted to the holder of the indebtedness. The changes made to this subsection by Laws 2023, LB531, shall be retroactive in application and shall apply to redevelopment plans approved prior to, on, or after June 7, 2023.

(10) A single fund may be used for all redevelopment projects that receive an expedited review pursuant to this section. It shall not be necessary to create a separate fund for any such project, including a project financed in whole or in part through the division of taxes as provided in section 18-2147.

(11) The governing body of a city that elects to allow expedited reviews of redevelopment plans under this section may revoke such election by resolution at any time. The revocation of such election shall not affect the validity of (a) any redevelopment plan or redevelopment project that was approved under this section prior to the revocation of such election or (b) any indebtedness incurred

by the authority under subdivision (6)(a) of this section prior to the revocation of such election.

Source: Laws 2020, LB1021, § 11; Laws 2022, LB1065, § 4; Laws 2023, LB531, § 20.

Operative date June 7, 2023.

18-2156 Substandard and blighted area; extremely blighted area; review; governing body; powers; remove designation; resolution; effect.

(1) If an area has been designated as a substandard and blighted area under section 18-2109 or an extremely blighted area under section 18-2101.02, the governing body of the city may review such area at any time to determine whether the area is still eligible for the relevant designation. As part of such review, the governing body may, but need not:

(a) Examine any study or analysis of such area conducted pursuant to section 18-2101.02 or 18-2109 to determine whether the conditions that led to the relevant designation still exist; and

(b) Examine the conditions within the area to determine whether the area still qualifies as a blighted area, a substandard area, or an extremely blighted area as such terms are defined in section 18-2103.

(2) If a review is conducted under this section and the governing body of the city finds that an area is no longer a substandard and blighted area or an extremely blighted area, the governing body may remove the relevant designation by passing a resolution declaring such area to no longer be a substandard and blighted area or an extremely blighted area. If the same area has been designated as both a substandard and blighted area and an extremely blighted area, the governing body may remove both designations in a single resolution.

(3) Removal of a substandard and blighted area designation or an extremely blighted area designation pursuant to this section shall not affect the validity of (a) any redevelopment plan or redevelopment project involving such area that was approved prior to the removal of such designation or (b) any bond, security for such bond, redevelopment contract, or agreement relating to such a redevelopment plan or redevelopment project.

Source: Laws 2023, LB531, § 18.

Operative date June 7, 2023.

18-2157 Substandard and blighted area; extremely blighted area; designation for more than thirty years; analysis of redevelopment projects; when; applicability.

(1) Beginning January 1, 2026, if an area has been designated as a substandard and blighted area under section 18-2109 or an extremely blighted area under section 18-2101.02 for more than thirty years, the governing body of the city shall not approve a new redevelopment plan or redevelopment project within such area unless and until the city conducts an analysis of the redevelopment projects that have occurred within such area. The analysis shall, at a minimum, include an assessment of the factors contributing to the lack of redevelopment in those parts of the area where significant redevelopment has not occurred and goals for the future redevelopment of the area. The analysis shall be provided to the planning commission or board of the city and to the

governing body of the city. A copy of such analysis shall be made available for public inspection at a location designated by the city.

(2) This section does not apply to the downtown area of a city of the first class, city of the second class, or village. For purposes of this section, downtown area means the urban core of population density and concentrated commercial activity.

Source: Laws 2023, LB531, § 19.

Operative date June 7, 2023.

ARTICLE 24

MUNICIPAL COOPERATIVE FINANCING

Section

18-2441. Agency; powers; enumerated.

18-2441 Agency; powers; enumerated.

The powers of an agency shall include the power:

(1) To plan, develop, construct, reconstruct, operate, manage, dispose of, participate in, maintain, repair, extend, improve, or acquire by purchase, gift, lease, or otherwise, one or more projects within or outside this state and act as agent, or designate one or more other persons to act as its agent, in connection with the planning, acquisition, construction, operation, maintenance, repair, extension, or improvement of such project, except that before any power project is constructed by an agency, approval of the power project shall have been obtained from the Nebraska Power Review Board under sections 70-1012 to 70-1016;

(2) To produce, acquire, sell, and distribute commodities, including, without limitation, fuels necessary to the ownership, use, operation, or maintenance of one or more projects;

(3) To enter into franchises, exchange, interchange, pooling, wheeling, transmission, and other similar agreements;

(4) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the agency;

(5) To employ agents and employees;

(6) To contract with any person within or outside this state for the sale or transmission of any service, product, or commodity supplied, transmitted, conveyed, transformed, produced, or generated by any project, or for any interest therein or any right to capacity thereof, on such terms and for such period of time as the agency's board shall determine;

(7) To purchase, sell, exchange, produce, generate, transmit, or distribute any service, product, or commodity within and outside the state in such amounts as it shall determine to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, and to enter into agreements with any person with respect to such purchase, sale, exchange, production, generation, transmission, or distribution on such terms and for such period of time as the agency's board shall determine;

(8) To acquire, own, hold, use, lease, as lessor or lessee, sell, or otherwise dispose of, mortgage, pledge, or grant a security interest in any real or personal

property, commodity, product, or service or any interest therein or right thereto;

(9) To exercise the power of eminent domain in the manner set forth in Chapter 76, article 7. No real property of the state, any municipality, or any political subdivision of the state, may be so acquired without the consent of the state, such municipality, or such subdivision;

(10) To incur debts, liabilities, or obligations including the borrowing of money and the issuance of bonds, secured or unsecured, pursuant to the Municipal Cooperative Financing Act;

(11) To borrow money or accept contributions, grants, or other financial assistance from a public authority and to comply with such conditions and enter into such contracts, covenants, mortgages, trust indentures, leases, or agreements as may be necessary, convenient, or desirable;

(12) To fix, maintain, revise, and collect fees, rates, rents, and charges for functions, services, facilities, or commodities provided by the agency, and it shall be the mandatory duty of each agency to fix, maintain, revise, and collect such fees, rates, rents, and charges as will always be sufficient to pay all operating and maintenance expenses of the agency, to pay for costs of renewals and replacements to a project, to pay interest on and principal of, whether at maturity or upon sinking-fund redemption, any outstanding bonds or other indebtedness of the agency, and to provide, as may be required by a resolution, trust indenture, security instrument, or other agreement of the agency, for any reasonable reserves for any such expenses, costs, or debt service or for any margins or coverages over and above debt service;

(13) Subject to any agreements with holders of outstanding bonds, to invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, including the proceeds from the sale of any bonds, in such obligations, securities, and other investments as the board shall deem proper;

(14) To join and pay dues to organizations, membership in which is deemed by the board to be beneficial to the accomplishment of the agency's purposes;

(15) To own and operate, contract to operate, or lease advanced metering infrastructure technology and provide advanced metering infrastructure services regarding publicly owned utility systems, including, without limitation, electric, water, and natural gas systems. The agency shall not engage in the sale of the natural gas commodity;

(16) To provide services related to information technology, physical security, physical infrastructure management, regulatory reporting, and administration regarding publicly owned utility and municipal infrastructure systems; and

(17) To exercise any other powers which are deemed necessary and convenient to carry out the Municipal Cooperative Financing Act.

Source: Laws 1981, LB 132, § 41; Laws 2023, LB565, § 21.
Operative date September 2, 2023.

ARTICLE 27

MUNICIPAL ECONOMIC DEVELOPMENT

Section
18-2709. Qualifying business, defined.

18-2709 Qualifying business, defined.

(1) Qualifying business means any corporation, partnership, limited liability company, or sole proprietorship which derives its principal source of income from any of the following: The manufacture of articles of commerce; the conduct of research and development; the processing, storage, transport, or sale of goods or commodities which are sold or traded in interstate commerce; the sale of services in interstate commerce; headquarters facilities relating to eligible activities as listed in this section; telecommunications activities, including services providing advanced telecommunications capability; tourism-related activities; or the production of films, including feature, independent, and documentary films, commercials, and television programs.

(2) Qualifying business also means:

(a) In cities of the first class, cities of the second class, and villages, a business that derives its principal source of income from the construction or rehabilitation of housing;

(b) In cities of the first class, cities of the second class, and villages, a business that derives its principal source of income from early childhood care and education programs;

(c) A business that derives its principal source of income from retail trade, except that no more than forty percent of the total revenue generated pursuant to the Local Option Municipal Economic Development Act for an economic development program in any twelve-month period and no more than twenty percent of the total revenue generated pursuant to the act for an economic development program in any five-year period, commencing from the date of municipal approval of an economic development program, shall be used by the city for or devoted to the use of retail trade businesses. For purposes of this subdivision, retail trade means a business which is principally engaged in the sale of goods or commodities to ultimate consumers for their own use or consumption and not for resale; and

(d) In cities with a population of five thousand inhabitants or less as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, a business shall be a qualifying business even though it derives its principal source of income from activities other than those set out in this section.

(3) If a business which would otherwise be a qualifying business employs people and carries on activities in more than one city in Nebraska or will do so at any time during the first year following its application for participation in an economic development program, it shall be a qualifying business only if, in each such city, it maintains employment for the first two years following the date on which such business begins operations in the city as a participant in its economic development program at a level not less than its average employment in such city over the twelve-month period preceding participation.

(4) A qualifying business need not be located within the territorial boundaries of the city from which it is or will be receiving financial assistance.

(5) Qualifying business does not include a political subdivision, a state agency, or any other governmental entity, except as allowed for cities of the

first class, cities of the second class, and villages for rural infrastructure development as provided for in subdivision (3)(b) of section 18-2705.

Source: Laws 1991, LB 840, § 10; Laws 1993, LB 121, § 145; Laws 1993, LB 732, § 18; Laws 1994, LB 1188, § 1; Laws 1995, LB 207, § 4; Laws 2001, LB 827, § 14; Laws 2011, LB471, § 2; Laws 2012, LB863, § 2; Laws 2015, LB150, § 2; Laws 2017, LB113, § 22; Laws 2019, LB160, § 2; Laws 2021, LB163, § 192; Laws 2023, LB531, § 21.

Operative date September 2, 2023.

CHAPTER 19
CITIES AND VILLAGES; LAWS APPLICABLE
TO MORE THAN ONE AND LESS THAN
ALL CLASSES

Article.

12. Dilapidated Commercial Property. (Applicable to cities of the first or second class and villages). 19-1201 to 19-1204.
 55. Municipal Density and Missing Middle Housing Act. 19-5504, 19-5505.

ARTICLE 12

DILAPIDATED COMMERCIAL PROPERTY
(Applicable to cities of the first or second class and villages.)

Section

- 19-1201. Revitalize Rural Nebraska Grant Program; Department of Environment and Energy; award grants; application; priority; appropriation; legislative intent.
 19-1202. City or village; application; approval; conditions.
 19-1203. City or village; return grant; when.
 19-1204. Revitalize Rural Nebraska Fund; created; use; investment.

19-1201 Revitalize Rural Nebraska Grant Program; Department of Environment and Energy; award grants; application; priority; appropriation; legislative intent.

(1) There is hereby established the Revitalize Rural Nebraska Grant Program. The governing body of a city of the first class, a city of the second class, or a village may apply, on behalf of the city or village, to the Department of Environment and Energy for approval of a dilapidated commercial property demolition grant. The Director of Environment and Energy shall prescribe the form and manner of application.

(2) The department shall award the grants annually on a competitive basis beginning in fiscal year 2023-24 subject to available funds. The department shall give priority to applications from cities of the second class and villages. If there are funds remaining at the end of each grant period, the department shall consider applications from cities of the first class. A city or village may apply for more than one grant. The department shall give preference to new applicants.

(3) There shall be no limit on the amount that can be awarded to each applicant within the available funding. It is the intent of the Legislature that if the department does not award all of the available appropriation for grants under the program, the unobligated amount of the appropriation shall be reappropriated for the next fiscal year to be awarded during the next grant period.

Source: Laws 2023, LB531, § 1.
 Operative date June 7, 2023.

19-1202 City or village; application; approval; conditions.

The Department of Environment and Energy shall award a grant to a city or village under the Revitalize Rural Nebraska Grant Program based on a completed application that demonstrates:

- (1) A dilapidated commercial property within the corporate limits of the city or village is in need of demolition;
- (2) The city or village owns the property or is completing the process prescribed in section 18-1722;
- (3) The property has been abandoned or vacant for at least six months prior to application;
- (4) The property is not listed, or eligible to be listed, on the National Register of Historic Places; and
- (5) The city or village is able to contribute matching funds, whether in cash or in-kind donations, in the amount of ten percent for a village, fifteen percent for a city of the second class, and twenty percent for a city of the first class.

Source: Laws 2023, LB531, § 2.

Operative date June 7, 2023.

19-1203 City or village; return grant; when.

If a city or village fails to engage in the demolition of the commercial property identified in the application for a grant under the Revitalize Rural Nebraska Grant Program within twenty-four months after receiving the grant, the city or village shall return the grant to the Department of Environment and Energy. The department shall remit such grant money to the State Treasurer for credit to the Revitalize Rural Nebraska Fund.

Source: Laws 2023, LB531, § 3.

Operative date June 7, 2023.

19-1204 Revitalize Rural Nebraska Fund; created; use; investment.

The Revitalize Rural Nebraska Fund is created. The Department of Environment and Energy shall use the fund for the Revitalize Rural Nebraska Grant Program. The fund shall include transfers as directed by the Legislature, money from grants returned under section 19-1203, and money from private contributions and other sources provided for purposes of the program. Any money in the Revitalize Rural Nebraska 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. Any interest earned on the fund shall be used for the program.

Source: Laws 2023, LB531, § 4.

Operative date June 7, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 55

MUNICIPAL DENSITY AND MISSING MIDDLE HOUSING ACT

Section

19-5504. Affordable housing; report; contents.

19-5505. Affordable housing action plan; required; failure to adopt; effect.

19-5504 Affordable housing; report; contents.

(1) On or before July 1, 2021, and by each July 1 every two years thereafter, each city shall electronically submit a report to the Urban Affairs Committee of the Legislature detailing its efforts to address the availability of and incentives for affordable housing through its zoning codes, ordinances, and regulations. Such report shall include, but not be limited to:

(a) An overview of the city's current residential zoning requirements;

(b) The percentage of areas within the corporate limits of the city zoned for residential use which permit the construction of multifamily housing and middle housing, including whether such areas are zoned specifically for residential use or generally allow residential use, and whether such construction is permitted with or without any additional permit requirements;

(c) A breakdown of new residential construction within the corporate limits of the city over the previous five years, including the percentage of such construction that was single-family housing, multifamily housing, and middle housing;

(d) A breakdown of residential units annexed by the city over the previous five years, including the percentage of such units that were single-family housing, multifamily housing, and middle housing;

(e) An estimate of the per-unit cost of housing within the corporate limits of the city;

(f) Whether such zoning codes, ordinances, and regulations provide for density bonuses or other concessions or incentives which encourage residential density, and the frequency with which such bonuses, concessions, or incentives are utilized;

(g) Whether such zoning codes, ordinances, and regulations allow the construction of accessory dwelling units;

(h) What incentives the city applies to encourage the development of affordable housing, including both direct incentives and regulatory relief;

(i) The percentage of areas within the corporate limits of the city zoned for residential use which have been declared substandard and blighted areas under the Community Development Law;

(j) The percentage of areas within the corporate limits of the city zoned for residential use which have been declared extremely blighted areas under the Community Development Law;

(k) A demographic analysis of the city with trends and estimates of the housing need classified by housing type and price range; and

(l) Efforts to adopt an affordable housing action plan as required under section 19-5505 or efforts to implement an affordable housing action plan after such plan is adopted.

(2) The Urban Affairs Committee of the Legislature may require any city to present its report to the committee at a public hearing.

Source: Laws 2020, LB866, § 4; Laws 2022, LB800, § 331; Laws 2023, LB531, § 22.

Operative date June 7, 2023.

Cross References

Community Development Law, see section 18-2101.

19-5505 Affordable housing action plan; required; failure to adopt; effect.

(1) On or before January 1, 2023, each city with a population of fifty thousand or more inhabitants shall adopt an affordable housing action plan. On or before January 1, 2024, each city with a population of less than fifty thousand inhabitants shall adopt an affordable housing action plan. Such action plan shall include, but not be limited to:

(a) Goals for the construction of new affordable housing units, including multifamily housing and middle housing, with specific types and numbers of units, geographic locations, and specific actions to encourage the development of affordable housing, middle housing, and workforce housing;

(b) Goals for a percentage of areas in the city zoned for residential use which permit the construction of multifamily housing and middle housing;

(c) Plans for the use of federal, state, and local incentives to encourage affordable housing, middle housing, and workforce housing, including the Affordable Housing Trust Fund, the Local Option Municipal Economic Development Act, tax-increment financing, federal community development block grants, density bonuses, and other nonmonetary regulatory relief; and

(d) Updates to the city's zoning codes, ordinances, and regulations to incentivize affordable housing.

(2) An affordable housing action plan required under subsection (1) of this section may be adopted as part of a city's comprehensive plan or as a separate plan.

(3) Each city that adopts an affordable housing action plan as required under subsection (1) of this section shall electronically submit a copy of such plan to the Urban Affairs Committee of the Legislature.

(4) Any city which fails to adopt an affordable housing action plan as required under subsection (1) of this section shall be required to allow the development of:

(a) Middle housing in all areas in the city zoned for residential use that allow for the development of detached single-family dwellings; and

(b) A duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings.

(5) A city shall amend any building zoning ordinances or regulations as needed to comply with subsection (4) of this section.

Source: Laws 2020, LB866, § 5; Laws 2021, LB44, § 1; Laws 2023, LB531, § 23.

Operative date June 7, 2023.

Cross References

Local Option Municipal Economic Development Act, see section 18-2701.

CHAPTER 21

CORPORATIONS AND OTHER COMPANIES

Article.

17. Credit Unions.

(a) Credit Union Act. 21-17,115.

ARTICLE 17

CREDIT UNIONS

(a) CREDIT UNION ACT

Section

21-17,115. Credit union organized under laws of Nebraska; rights, powers, privileges, and immunities of federal credit union; exception.

(a) CREDIT UNION ACT

21-17,115 Credit union organized under laws of Nebraska; rights, powers, privileges, and immunities of federal credit union; exception.

Notwithstanding any of the other provisions of the Credit Union Act or any other Nebraska statute, any credit union incorporated under the laws of the State of Nebraska and organized under the provisions of the act shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, 2023, by a federal credit union doing business in Nebraska on the condition that such rights, powers, privileges, benefits, and immunities shall not relieve such credit union from payment of state taxes assessed under any applicable laws of this state.

Source: Laws 1977, LB 246, § 5; Laws 1978, LB 772, § 1; Laws 1979, LB 307, § 1; Laws 1980, LB 793, § 1; Laws 1981, LB 60, § 1; Laws 1982, LB 775, § 2; Laws 1983, LB 143, § 1; Laws 1984, LB 643, § 1; Laws 1985, LB 430, § 1; Laws 1986, LB 963, § 1; Laws 1987, LB 197, § 1; Laws 1988, LB 957, § 1; Laws 1989, LB 126, § 1; Laws 1990, LB 1017, § 1; Laws 1991, LB 97, § 1; Laws 1992, LB 984, § 1; Laws 1993, LB 122, § 1; Laws 1994, LB 878, § 1; Laws 1995, LB 76, § 1; R.S.Supp.,1995, § 21-17,120.01; Laws 1996, LB 948, § 115; Laws 1997, LB 152, § 1; Laws 1998, LB 1321, § 75; Laws 1999, LB 278, § 1; Laws 2000, LB 932, § 27; Laws 2001, LB 53, § 26; Laws 2002, LB 957, § 20; Laws 2003, LB 217, § 32; Laws 2004, LB 999, § 21; Laws 2005, LB 533, § 32; Laws 2006, LB 876, § 24; Laws 2007, LB124, § 21; Laws 2008, LB851, § 17; Laws 2009, LB327, § 15; Laws 2010, LB890, § 14; Laws 2011, LB74, § 5; Laws 2012, LB963, § 22; Laws 2013, LB213, § 13; Laws 2014, LB712, § 3; Laws 2015, LB286, § 3; Laws 2016, LB676, § 3; Laws 2017, LB140, § 149; Laws 2018, LB812, § 9; Laws 2019, LB258, § 13; Laws 2020, LB909, § 21; Laws 2021, LB363, § 24; Laws 2022, LB707, § 31; Laws 2023, LB92, § 50.

Operative date June 7, 2023.

**CHAPTER 23
COUNTY GOVERNMENT AND OFFICERS**

Article.

23. County Employees Retirement. 23-2301 to 23-2332.01.

ARTICLE 23

COUNTY EMPLOYEES RETIREMENT

Section

23-2301. Terms, defined.

23-2323.01. Reemployment; military service; contributions; effect; applicability.

23-2332. County in excess of 85,000 inhabitants; commissioned law enforcement personnel; supplemental retirement plan.

23-2332.01. County of 85,000 inhabitants or less; commissioned law enforcement personnel; supplemental retirement plan.

23-2301 Terms, defined.

For purposes of the County Employees Retirement Act, unless the context otherwise requires:

(1)(a) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of an annuity payment.

(b) For a member hired prior to January 1, 2018, the mortality assumption used for purposes of converting the member cash balance account shall be the 1994 Group Annuity Mortality Table using a unisex rate that is fifty percent male and fifty percent female. For purposes of converting the member cash balance account attributable to contributions made prior to January 1, 1984, that were transferred pursuant to the act, the 1994 Group Annuity Mortality Table for males shall be used.

(c) For a member hired on or after January 1, 2018, or rehired on or after January 1, 2018, after termination of employment and being paid a retirement benefit or taking a refund of contributions, the mortality assumption used for purposes of converting the member cash balance account shall be a unisex mortality table 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 mortality table and actuarial factors in effect on the member's retirement date will be used to calculate the actuarial equivalency of any retirement benefit;

(2) Annuity means equal monthly payments provided by the retirement system to a member or beneficiary under forms determined by the board beginning the first day of the month after an annuity election is received in the office of the Nebraska Public Employees Retirement Systems or the first day of the month after the employee's termination of employment, whichever is later. The last payment shall be at the end of the calendar month in which the member dies or in accordance with the payment option chosen by the member;

(3) Annuity start date means the date upon which a member's annuity is first effective and shall be the first day of the month following the member's

termination or following the date the application is received by the board, whichever is later;

(4) Cash balance benefit means a member's retirement benefit that is equal to an amount based on annual employee contribution credits plus interest credits and, if vested, employer contribution credits plus interest credits and dividend amounts credited in accordance with subdivision (4)(c) of section 23-2317;

(5)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, per diems, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code 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;

(6) Date of adoption of the retirement system by each county means the first day of the month next following the date of approval of the retirement system by the county board or January 1, 1987, whichever is earlier;

(7) Date of disability means the date on which a member is determined by the board to be disabled;

(8) Defined contribution benefit means a member's retirement benefit from a money purchase plan in which member benefits equal annual contributions and earnings pursuant to section 23-2309 and, if vested, employer contributions and earnings pursuant to section 23-2310;

(9) 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;

(10) Employee means all persons or officers who are employed by a county of the State of Nebraska on a permanent basis, persons or officers employed by or serving in a municipal county formed by at least one county participating in the retirement system, persons employed as provided in section 2-1608, all elected officers of a county, and such other persons or officers as are classified from time to time as permanent employees by the county board of the county by which they are employed, except that employee does not include judges, employees or officers of any county having a population in excess of two hundred fifty thousand inhabitants as determined by the most recent federal decennial census, or, except as provided in section 23-2306, persons making contributions to the School Employees Retirement System of the State of Nebraska;

(11) Employee contribution credit means an amount equal to the member contribution amount required by section 23-2307;

(12) Employer contribution credit means an amount equal to the employer contribution amount required by section 23-2308;

(13) Final account value means the value of a member's account on the date the account is either distributed to the member or used to purchase an annuity from the plan, which date shall occur as soon as administratively practicable after receipt of a valid application for benefits, but no sooner than forty-five days after the member's termination;

(14) Five-year break in service means a period of five consecutive one-year breaks in service;

(15) Full-time employee means an employee who is employed to work one-half or more of the regularly scheduled hours during each pay period;

(16) Future service means service following the date of adoption of the retirement system;

(17) Guaranteed investment contract means an investment contract or account offering a return of principal invested plus interest at a specified rate. For investments made after July 19, 1996, guaranteed investment contract does not include direct obligations of the United States or its instrumentalities, bonds, participation certificates or other obligations of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association, or collateralized mortgage obligations and other derivative securities. This subdivision shall not be construed to require the liquidation of investment contracts or accounts entered into prior to July 19, 1996;

(18) Hire date or date of hire means the first day of compensated service subject to retirement contributions;

(19) Interest credit rate means the greater of (a) five percent or (b) the applicable federal mid-term rate, as published by the Internal Revenue Service as of the first day of the calendar quarter for which interest credits are credited, plus one and one-half percent, such rate to be compounded annually;

(20) Interest credits means the amounts credited to the employee cash balance account and the employer cash balance account at the end of each day. Such interest credit for each account shall be determined by applying the daily portion of the interest credit rate to the account balance at the end of the previous day. Such interest credits shall continue to be credited to the employee cash balance account and the employer cash balance account after a member ceases to be an employee, except that no such credit shall be made with respect to the employee cash balance account and the employer cash balance account for any day beginning on or after the member's date of final account value. If benefits payable to the member's surviving spouse or beneficiary are delayed after the member's death, interest credits shall continue to be credited to the employee cash balance account and the employer cash balance account until such surviving spouse or beneficiary commences receipt of a distribution from the plan;

(21) Member cash balance account means an account equal to the sum of the employee cash balance account and, if vested, the employer cash balance account and dividend amounts credited in accordance with subdivision (4)(c) of section 23-2317;

(22) One-year break in service means a plan year during which the member has not completed more than five hundred hours of service;

(23) Participation means qualifying for and making the required deposits to the retirement system during the course of a plan year;

(24) Part-time employee means an employee who is employed to work less than one-half of the regularly scheduled hours during each pay period;

(25) Plan year means the twelve-month period beginning on January 1 and ending on December 31;

(26) Prior service means service prior to the date of adoption of the retirement system;

(27) Regular interest means the rate of interest earned each calendar year as determined by the retirement board in conformity with actual and expected earnings on the investments through December 31, 1985;

(28) Required beginning date means, for purposes of the deferral of distributions and the commencement of mandatory distributions pursuant to section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder, April 1 of the year following the calendar year in which a member:

(a)(i) Terminated employment with all employers participating in the plan; and

(ii)(A) Attained at least seventy and one-half years of age for a member who attained seventy and one-half years of age on or before December 31, 2019;

(B) Attained at least seventy-two years of age for a member who attained seventy and one-half years of age on or after January 1, 2020, and prior to January 1, 2023;

(C) Attained at least seventy-three years of age for a member who attained seventy-two years of age after December 31, 2022, and seventy-three years of age prior to January 1, 2033; or

(D) Attained at least seventy-five years of age for a member who attained seventy-four years of age after December 31, 2032; or

(b)(i) Terminated employment with all employers participating in the plan; and

(ii) Otherwise reached the date specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder;

(29) Required contribution means the deduction to be made from the compensation of employees as provided in the act;

(30) Retirement means qualifying for and accepting the retirement benefit granted under the act after terminating employment;

(31) 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;

(32) Retirement board or board means the Public Employees Retirement Board;

(33) Retirement date means (a) the first day of the month following the date upon which a member's request for retirement is received on a retirement application if the member is eligible for retirement and has terminated employment or (b) the first day of the month following termination of employment if

the member is eligible for retirement and has filed an application but has not yet terminated employment;

(34) Retirement system means the Retirement System for Nebraska Counties;

(35) Service means the actual total length of employment as an employee and is not deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) 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 section 23-2315;

(36) 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;

(37) Termination of employment occurs on the date on which a county which is a member of the retirement system determines that its employer-employee relationship with an employee is dissolved. The county shall notify the board of the date on which such a termination has occurred. Termination of employment does not occur if an employee whose employer-employee relationship with a county is dissolved enters into an employer-employee relationship with the same or another county which participates in the Retirement System for Nebraska Counties and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased with the county and the date when the employer-employee relationship commenced with the same or another county which qualifies the employee for participation in the plan. It is the responsibility of the employer that is involved in the termination of employment to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a retirement benefit has been paid to a member of the retirement system pursuant to section 23-2319, the board shall require the member who has received such benefit to repay the benefit to the retirement system; and

(38) Vesting credit means credit for years, or a fraction of a year, of participation in another Nebraska governmental plan for purposes of determining vesting of the employer account.

Source: Laws 1965, c. 94, § 1, p. 402; Laws 1969, c. 172, § 1, p. 750; Laws 1973, LB 216, § 1; Laws 1974, LB 905, § 1; Laws 1975, LB 47, § 1; Laws 1975, LB 45, § 1; Laws 1984, LB 216, § 2; Laws 1985, LB 347, § 1; Laws 1985, LB 432, § 1; Laws 1986, LB 311, § 2; Laws 1991, LB 549, § 1; Laws 1993, LB 417, § 1; Laws 1994, LB 833, § 1; Laws 1995, LB 369, § 2; Laws 1996, LB 847, § 2; Laws 1996, LB 1076, § 1; Laws 1996, LB 1273, § 14; Laws 1997, LB 624, § 1; Laws 1998, LB 1191, § 23; Laws 1999, LB

703, § 1; Laws 2000, LB 1192, § 1; Laws 2001, LB 142, § 32; Laws 2002, LB 407, § 1; Laws 2002, LB 687, § 3; Laws 2003, LB 451, § 2; Laws 2004, LB 1097, § 2; Laws 2006, LB 366, § 2; Laws 2006, LB 1019, § 1; Laws 2011, LB509, § 2; Laws 2012, LB916, § 4; Laws 2013, LB263, § 2; Laws 2015, LB41, § 2; Laws 2017, LB415, § 11; Laws 2020, LB1054, § 1; Laws 2023, LB103, § 1.

Operative date May 2, 2023.

Cross References

Spousal Pension Rights Act, see section 42-1101.

23-2323.01 Reemployment; military service; contributions; effect; applicability.

(1)(a) For military service beginning on or after December 12, 1994, but before January 1, 2018, any employee who, while an employee, entered into and served in the armed forces of the United States and who within ninety days after honorable discharge or honorable separation from active duty again became an employee shall be credited, for the purposes of section 23-2315, with all the time actually served in the armed forces as if such person had been an employee throughout such service in the armed forces pursuant to the terms and conditions of subdivision (b) of this subsection.

(b) Under such rules and regulations as the retirement board may adopt and promulgate, an employee who is reemployed on or after December 12, 1994, pursuant to 38 U.S.C. 4301 et seq., may pay to the retirement system an amount equal to the sum of all deductions which would have been made from the employee's compensation during such period of military service. Payment shall be made within the period required by law, not to exceed five years. To the extent that payment is made, (i) the employee shall be treated as not having incurred a break in service by reason of the employee's period of military service, (ii) the period of military service shall be credited for the purposes of determining the nonforfeitability of the employee's accrued benefits and the accrual of benefits under the plan, and (iii) the employer shall allocate the amount of employer contributions to the employee's employer account in the same manner and to the same extent the allocation occurs for other employees during the period of service. For purposes of employee and employer contributions under this section, the employee's compensation during the period of military service shall be the rate the employee would have received but for the military service or, if not reasonably determinable, the average rate the employee received during the twelve-month period immediately preceding military service.

(c) The employer shall pick up the employee contributions made through irrevocable payroll deduction authorizations pursuant to this subsection, and the contributions so picked up shall be treated as employer contributions in the same manner as contributions picked up under section 23-2307.

(2)(a) For military service beginning on or after January 1, 2018, any employee who is reemployed pursuant to 38 U.S.C. 4301 et seq., shall be treated as not having incurred a break in service by reason of the employee's period of military service. Such military service shall be credited for purposes of determining the nonforfeitability of the employee's accrued benefits and the accrual of benefits under the plan.

(b) The county employing the employee shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service. To satisfy the liability, the county employing the employee shall pay to the retirement system an amount equal to:

(i) The sum of the employee and employer contributions that would have been paid during such period of military service; and

(ii) Any actuarial costs necessary to fund the obligation of the plan to provide benefits based upon such period of military service. For the purposes of determining the amount of such liability and obligation of the plan, earnings and forfeitures, gains and losses, regular interest, interest credits, or dividends that would have accrued on the employee and employer contributions that are paid by the employer pursuant to this section shall not be included.

(c) The amount required pursuant to subdivision (b) of this subsection shall be paid to the retirement system as soon as reasonably practicable following the date of reemployment but must be paid within eighteen months of the date the board notifies the employer of the amount due. If the employer fails to pay the required amount within such eighteen-month period, then the employer is also responsible for any actuarial costs and interest on actuarial costs that accrue from eighteen months after the date the employer is notified by the board until the date the amount is paid.

(d) The retirement board may adopt and promulgate rules and regulations to carry out this subsection, including, but not limited to, rules and regulations on:

(i) How and when the employee and employer must notify the retirement system of a period of military service;

(ii) The acceptable methods of payment;

(iii) Determining the service and compensation upon which the contributions must be made;

(iv) Accelerating the payment from the employer due to unforeseen circumstances that occur before payment is made pursuant to this section, including, but not limited to, the employee's termination or retirement or the employer's reorganization, consolidation, merger, or closing; and

(v) The documentation required to substantiate that the employee was reemployed pursuant to 38 U.S.C. 4301 et seq.

(3) This section applies to military service that falls within the definition of uniformed services under 38 U.S.C. 4301 et seq., and includes (a) preparation periods prior to military service, (b) periods during military service, (c) periods of rest and recovery authorized by 38 U.S.C. 4301 et seq., after military service, (d) periods of federal military service, and (e) periods during active service of the state provided pursuant to sections 55-101 to 55-181.

Source: Laws 1996, LB 847, § 7; Laws 1998, LB 1191, § 29; Laws 1999, LB 703, § 4; Laws 2017, LB415, § 15; Laws 2018, LB1005, § 9; Laws 2023, LB103, § 2.
Operative date May 2, 2023.

23-2332 County in excess of 85,000 inhabitants; commissioned law enforcement personnel; supplemental retirement plan.

Any county with a population in excess of eighty-five thousand inhabitants that participates in the Retirement System for Nebraska Counties established by

the County Employees Retirement Act shall establish and fund a supplemental retirement plan for the benefit of all present and future commissioned law enforcement personnel employed by such county. The auxiliary benefit plan shall be funded by additional contributions to the county employees retirement plan in excess of the amounts established by sections 23-2307 and 23-2308. The additional contributions made by employees shall be credited to the employee account, and contributions paid by the county shall be credited to the employer account, with each amount to be established at a rate of three percent of compensation. All contributions made pursuant to this section shall be invested and administered according to the County Employees Retirement Act.

Source: Laws 1985, LB 432, § 5; Laws 1991, LB 549, § 14; Laws 2023, LB103, § 3.

Operative date September 2, 2023.

23-2332.01 County of 85,000 inhabitants or less; commissioned law enforcement personnel; supplemental retirement plan.

Any county with a population of eighty-five thousand inhabitants or less that participates in the Retirement System for Nebraska Counties established by the County Employees Retirement Act shall establish and fund a supplemental retirement plan for the benefit of all present and future commissioned law enforcement personnel employed by such county who possess a valid law enforcement officer certificate or diploma, as established by the Nebraska Police Standards Advisory Council. The auxiliary benefit plan shall be funded by additional contributions to the county employees retirement plan in excess of the amounts established by sections 23-2307 and 23-2308. The additional contributions made by employees shall be credited to the employee account, and contributions paid by the county shall be credited to the employer account, with each amount to be established at a rate of two percent of compensation. All contributions made pursuant to this section shall be invested and administered according to the County Employees Retirement Act.

Source: Laws 2001, LB 186, § 3; Laws 2023, LB103, § 4.

Operative date September 2, 2023.

CHAPTER 24

COURTS

Article.

- 2. Supreme Court.
 - (a) Organization. 24-201.01, 24-209.
 - (b) Clerk and Reporter. 24-211, 24-212.
- 5. County Court.
 - (a) Organization. 24-503.
- 7. Judges, General Provisions.
 - (a) Judges Retirement. 24-701 to 24-710.04.
- 10. Courts, General Provisions. 24-1008.
- 11. Court of Appeals. 24-1109.
- 13. Problem Solving Courts. 24-1302.

ARTICLE 2

SUPREME COURT

(a) ORGANIZATION

Section

- 24-201.01. Supreme Court judges; salary; amount; restriction on other employment of judges.
- 24-209. Nebraska Appellate Courts Online Library; repository of decisions of the Supreme Court and Court of Appeals; distribution of electronic opinions; sale of printed volumes or issues; Supreme Court Reports Cash Fund; created.

(b) CLERK AND REPORTER

- 24-211. Clerk and reporter; salaries; how fixed; duties.
- 24-212. Preparation and publication of decisions of the Supreme Court and Court of Appeals; annotations.

(a) ORGANIZATION

24-201.01 Supreme Court judges; salary; amount; restriction on other employment of judges.

On July 1, 2022, the salary of the Chief Justice and the judges of the Supreme Court shall be one hundred ninety-eight thousand four hundred twenty-six dollars and fifty-one cents. On July 1, 2023, the salary of the Chief Justice and the judges of the Supreme Court shall be two hundred twelve thousand three hundred sixteen dollars and thirty-seven cents. On July 1, 2024, the salary of the Chief Justice and the judges of the Supreme Court shall be two hundred twenty-five thousand fifty-five dollars and thirty-five cents.

The Chief Justice and the judges of the Supreme Court shall hold no other public office of profit or trust during their terms of office nor accept any public appointment or employment under the authority of the government of the United States for which they receive compensation for their services. Such salaries shall be payable in equal monthly installments.

Source: Laws 1947, c. 345, § 1, p. 1089; Laws 1951, c. 58, § 1, p. 191; Laws 1955, c. 77, § 1, p. 231; Laws 1959, c. 93, § 1, p. 406; Laws 1963, c. 127, § 1, p. 480; Laws 1963, c. 534, § 1, p. 1676; Laws

1967, c. 136, § 1, p. 421; Laws 1969, c. 173, § 1, p. 754; Laws 1969, c. 174, § 1, p. 755; Laws 1972, LB 1293, § 2; Laws 1974, LB 923, § 1; Laws 1976, LB 76, § 1; Laws 1978, LB 672, § 1; Laws 1979, LB 398, § 1; Laws 1983, LB 269, § 1; Laws 1986, LB 43, § 1; Laws 1987, LB 564, § 1; Laws 1990, LB 42, § 1; Laws 1995, LB 189, § 1; Laws 1997, LB 362, § 1; Laws 1999, LB 350, § 1; Laws 2001, LB 357, § 1; Laws 2005, LB 348, § 1; Laws 2007, LB377, § 1; Laws 2009, LB414, § 1; Laws 2012, LB862, § 1; Laws 2013, LB306, § 1; Laws 2015, LB663, § 1; Laws 2017, LB647, § 1; Laws 2019, LB300, § 1; Laws 2021, LB386, § 1; Laws 2023, LB799, § 1.

Operative date July 1, 2023.

24-209 Nebraska Appellate Courts Online Library; repository of decisions of the Supreme Court and Court of Appeals; distribution of electronic opinions; sale of printed volumes or issues; Supreme Court Reports Cash Fund; created.

(1) The Nebraska Appellate Courts Online Library shall be the repository for the published judicial opinions of the Supreme Court and the Court of Appeals which have been designated for permanent publication. All previous official bound and printed volumes of the appellate courts' opinions shall be made available on the Nebraska Appellate Courts Online Library. Other distribution of such electronic opinions shall be as directed by the Supreme Court.

(2) As directed by the Supreme Court, extra circulating copies of previously printed volumes or issues of the Nebraska Reports, Nebraska Appellate Reports, Nebraska Advance Sheets, and Decisions of the Nebraska Court of Appeals may be sold as prescribed by the Supreme Court. The money received from such sales shall be paid into the Supreme Court Reports Cash Fund which is hereby created.

Source: Laws 1879, § 20, p. 86; Laws 1901, c. 24, § 2, p. 330; Laws 1907, c. 41, § 1, p. 179; R.S.1913, § 1147; Laws 1921, c. 213, § 1, p. 752; C.S.1922, § 1076; Laws 1923, c. 129, § 1, p. 322; C.S.1929, § 27-209; Laws 1937, c. 59, § 1, p. 236; C.S.Supp.,1941, § 27-209; R.S.1943, § 24-209; Laws 1947, c. 185, § 3, p. 611; Laws 1957, c. 210, § 1, p. 742; Laws 1961, c. 101, § 1, p. 332; Laws 1961, c. 243, § 1, p. 724; Laws 1963, c. 303, § 1, p. 897; Laws 1963, c. 129, § 1, p. 496; Laws 1971, LB 10, § 1; Laws 1972, LB 1284, § 13; Laws 1977, LB 9, § 1; Laws 1979, LB 377, § 1; Laws 1983, LB 271, § 1; Laws 1984, LB 13, § 5; Laws 1984, LB 848, § 1; Laws 1985, LB 498, § 1; Laws 1986, LB 750, § 1; Laws 1986, LB 811, § 11; Laws 1991, LB 732, § 33; Laws 1992, LB 1059, § 2; Laws 1995, LB 271, § 2; Laws 2002, LB 876, § 4; Laws 2015, LB301, § 2; Laws 2023, LB799, § 2.

Operative date September 2, 2023.

(b) CLERK AND REPORTER

24-211 Clerk and reporter; salaries; how fixed; duties.

(1) The Clerk of the Supreme Court shall keep his or her office at the State Capitol, be the custodian of the seal of the court, perform the duties devolving upon him or her by law, and be subject to the orders of the court. The Clerk of

the Supreme Court shall receive an annual salary to be fixed by the Supreme Court.

(2) The Reporter of Decisions shall keep his or her office at the State Capitol, perform the duties devolving upon him or her by law, and be subject to the orders of the court. The Reporter of Decisions shall receive an annual salary to be fixed by the Supreme Court.

Source: Laws 1879, § 17, p. 85; R.S.1913, § 1144; Laws 1921, c. 103, § 1, p. 373; C.S.1922, § 1073; C.S.1929, § 27-211; R.S.1943, § 24-211; Laws 1955, c. 78, § 1, p. 233; Laws 1965, c. 109, § 1, p. 433; Laws 1991, LB 732, § 34; Laws 1995, LB 271, § 3; Laws 2023, LB799, § 3.

Operative date September 2, 2023.

Cross References

Clerk:

- Amercement for neglect of duty, see section 25-1546.
- Deputy, appointment, see section 24-401.
- General duties, see sections 25-2204 to 25-2214.
- Not to practice as an attorney, see section 7-111.
- Oaths and affirmations, power to administer, see section 24-1002.
- Serves as State Librarian, see section 51-102.

24-212 Preparation and publication of decisions of the Supreme Court and Court of Appeals; annotations.

(1) The Reporter of Decisions shall prepare the opinions designated for permanent publication from the Supreme Court and Court of Appeals for publication in the Nebraska Appellate Courts Online Library as soon as feasible. Such opinions should show the name of the judge writing the opinion, the names of the judges concurring therein, and the names of the judges, if any, dissenting from the opinion.

(2) At such times as the Revisor of Statutes may request, the Reporter shall also edit and arrange for publication or electronic release in the statutes of Nebraska, annotations of the decisions of the Supreme Court of Nebraska and the decisions of the Court of Appeals designated for permanent publication and transmit them to the Revisor of Statutes.

Source: Laws 1879, § 19, p. 85; Laws 1901, c. 24, § 1, p. 329; R.S.1913, § 1146; C.S.1922, § 1075; Laws 1929, c. 84, § 1, p. 334; C.S. 1929, § 27-212; R.S.1943, § 24-212; Laws 1967, c. 328, § 1, p. 868; Laws 1979, LB 377, § 2; Laws 1984, LB 848, § 2; Laws 1994, LB 1244, § 1; Laws 1995, LB 271, § 4; Laws 2015, LB301, § 3; Laws 2023, LB799, § 4.

Operative date September 2, 2023.

**ARTICLE 5
COUNTY COURT**

(a) ORGANIZATION

Section

24-503. County judge districts; created; number of judges.

(a) ORGANIZATION

24-503 County judge districts; created; number of judges.

For the purpose of serving the county courts in each county, twelve county judge districts are hereby created:

District No. 1 shall contain the counties of Saline, Jefferson, Gage, Thayer, Johnson, Pawnee, Nemaha, and Richardson;

District No. 2 shall contain the counties of Sarpy, Cass, and Otoe;

District No. 3 shall contain the county of Lancaster;

District No. 4 shall contain the county of Douglas;

District No. 5 shall contain the counties of Merrick, Platte, Colfax, Boone, Nance, Hamilton, Polk, York, Butler, Seward, and Saunders;

District No. 6 shall contain the counties of Dixon, Dakota, Cedar, Burt, Thurston, Dodge, and Washington;

District No. 7 shall contain the counties of Knox, Cuming, Antelope, Pierce, Wayne, Madison, and Stanton;

District No. 8 shall contain the counties of Cherry, Keya Paha, Brown, Rock, Blaine, Loup, Custer, Boyd, Holt, Garfield, Wheeler, Valley, Greeley, Sherman, and Howard;

District No. 9 shall contain the counties of Buffalo and Hall;

District No. 10 shall contain the counties of Fillmore, Adams, Clay, Phelps, Kearney, Harlan, Franklin, Webster, and Nuckolls;

District No. 11 shall contain the counties of Hooker, Thomas, Arthur, McPherson, Logan, Keith, Perkins, Lincoln, Dawson, Chase, Hayes, Frontier, Gosper, Dundy, Hitchcock, Red Willow, and Furnas; and

District No. 12 shall contain the counties of Sioux, Dawes, Box Butte, Sheridan, Scotts Bluff, Morrill, Garden, Banner, Kimball, Cheyenne, Grant, and Deuel.

District 4 shall have twelve county judges. District 3 shall have seven county judges. Districts 5, 9, 11, and 12 shall have five county judges. Districts 2 and 6 shall have four county judges. Districts 1, 7, 8, and 10 shall have three county judges.

Judge of the county court shall include any person appointed to the office of county judge or municipal judge prior to July 1, 1985, pursuant to Article V, section 21, of the Constitution of Nebraska.

Any person serving as a municipal judge in district 3 or 4 immediately prior to July 1, 1985, shall be a judge of the county court and shall be empowered to hear only those cases as provided in section 24-517 which the presiding judge of the county court for such district, with the concurrence of the Supreme Court, shall direct.

Source: Laws 1972, LB 1032, § 3; Laws 1974, LB 785, § 1; Laws 1980, LB 618, § 2; Laws 1984, LB 13, § 7; Laws 1985, LB 287, § 2; Laws 1986, LB 516, § 3; Laws 1987, LB 509, § 1; Laws 1990, LB 822, § 13; Laws 1991, LB 181, § 2; Laws 1992, LB 1059, § 4; Laws 1993, LB 306, § 2; Laws 1998, LB 404, § 2; Laws 2007, LB377, § 3; Laws 2012, LB790, § 1; Laws 2023, LB799, § 5. Operative date September 2, 2023.

ARTICLE 7

JUDGES, GENERAL PROVISIONS

(a) JUDGES RETIREMENT

Section

24-701. Terms, defined.

24-710.01. Judges; alternative contribution rate and retirement benefit; election; notice.

24-710.04. Reemployment; military service; credit; effect; applicability.

(a) JUDGES RETIREMENT

24-701 Terms, defined.

For purposes of the Judges Retirement Act, unless the context otherwise requires:

(1)(a) Actuarial equivalence means the equality in value of the aggregate amounts expected to be received under different forms of payment.

(b) For a judge hired prior to July 1, 2017, the determinations are to be based on the 1994 Group Annuity Mortality Table reflecting sex-distinct factors blended using seventy-five percent of the male table and twenty-five percent of the female table. An interest rate of eight percent per annum shall be reflected in making these determinations.

(c) For a judge 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, 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 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 judge'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;

(2) Beneficiary means a person so designated by a judge in the last designation of beneficiary on file with the board or, if no designated person survives or if no designation is on file, the estate of such judge;

(3) Board means the Public Employees Retirement Board;

(4)(a) Compensation means the statutory salary of a judge or the salary being received by such judge pursuant to law. Compensation does not include compensation for unused sick leave or unused vacation leave converted to cash payments, insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, per diems, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125 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 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) Creditable service means the total number of years served as a judge, including prior service, military service, and current service, computed to the nearest one-twelfth year. For current service prior to the time that the member has contributed the required percentage of salary until the maximum benefit as limited by section 24-710 has been earned, creditable service does not include current service for which member contributions are not made or are withdrawn and not repaid;

(6) Current benefit means the initial benefit increased by all adjustments made pursuant to the Judges Retirement Act;

(7)(a) Current service means the period of service (i) any judge of the Supreme Court or judge of the district court serves in such capacity from and after January 3, 1957, (ii)(A) any judge of the Nebraska Workmen's Compensation Court served in such capacity from and after September 20, 1957, and prior to July 17, 1986, and (B) any judge of the Nebraska Workers' Compensation Court serves in such capacity on and after July 17, 1986, (iii) any county judge serves in such capacity from and after January 5, 1961, (iv) any judge of a separate juvenile court serves in such capacity, (v) any judge of the municipal court served in such capacity subsequent to October 23, 1967, and prior to July 1, 1985, (vi) any judge of the county court or associate county judge serves in such capacity subsequent to January 4, 1973, (vii) any clerk magistrate, who was an associate county judge and a member of the fund at the time of appointment as a clerk magistrate, serves in such capacity from and after July 1, 1986, and (viii) any judge of the Court of Appeals serves in such capacity on or after September 6, 1991.

(b) Current service shall not be deemed to be interrupted by (i) temporary or seasonal suspension of service that does not terminate the employee's employment, (ii) leave of absence authorized by the employer for a period not exceeding twelve months, (iii) leave of absence because of disability, or (iv) military service, when properly authorized by the board. Current service does not include any period of disability for which disability retirement benefits are received under section 24-709;

(8) Final average compensation for a judge who becomes a member prior to July 1, 2015, means the average monthly compensation for the three twelve-month periods of service as a judge in which compensation was the greatest or, in the event of a judge serving less than three twelve-month periods, the average monthly compensation for such judge's period of service. Final average compensation for a judge who becomes a member on and after July 1, 2015, means the average monthly compensation for the five twelve-month periods of service as a judge in which compensation was the greatest or, in the event of a judge serving less than five twelve-month periods, the average monthly compensation for such judge's period of service;

(9) Fund means the Nebraska Retirement Fund for Judges;

(10) Future member means a judge who first served as a judge on or after December 25, 1969, or means a judge who first served as a judge prior to December 25, 1969, who elects to become a future member on or before June 30, 1970, as provided in section 24-710.01;

(11) Hire date or date of hire means the first day of compensated service subject to retirement contributions;

(12) Initial benefit means the retirement benefit calculated at the time of retirement;

(13) Judge means and includes (a) all duly elected or appointed Chief Justices or judges of the Supreme Court and judges of the district courts of Nebraska who serve in such capacity on and after January 3, 1957, (b)(i) all duly appointed judges of the Nebraska Workmen's Compensation Court who served in such capacity on and after September 20, 1957, and prior to July 17, 1986, and (ii) judges of the Nebraska Workers' Compensation Court who serve in such capacity on and after July 17, 1986, (c) judges of separate juvenile courts, (d) judges of the county courts of the respective counties who serve in such capacity on and after January 5, 1961, (e) judges of the county court and clerk magistrates who were associate county judges and members of the fund at the time of their appointment as clerk magistrates, (f) judges of municipal courts established by Chapter 26, article 1, who served in such capacity on and after October 23, 1967, and prior to July 1, 1985, and (g) judges of the Court of Appeals;

(14) Member means a judge eligible to participate in the retirement system established under the Judges Retirement Act;

(15) Normal form annuity means a series of equal monthly payments payable at the end of each calendar month during the life of a retired judge as provided in sections 24-707 and 24-710, except as provided in section 42-1107. The first payment shall include all amounts accrued since the effective date of the award of the annuity. The last payment shall be at the end of the calendar month in which such judge dies. If at the time of death the amount of annuity payments such judge has received is less than contributions to the fund made by such judge, plus regular interest, the difference shall be paid to the beneficiary or estate;

(16) Normal retirement date means the first day of the month following attainment of age sixty-five;

(17) Original member means a judge who first served as a judge prior to December 25, 1969, who does not elect to become a future member pursuant to section 24-710.01, and who was retired on or before December 31, 1992;

(18) Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

(19) Prior service means all the periods of time any person has served as a (a) judge of the Supreme Court or judge of the district court prior to January 3, 1957, (b) judge of the county court prior to January 5, 1961, (c) judge of the Nebraska Workmen's Compensation Court prior to September 20, 1957, (d) judge of the separate juvenile court, or (e) judge of the municipal court prior to October 23, 1967;

(20) 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;

(21) Required beginning date means, for purposes of the deferral of distributions and the commencement of mandatory distributions pursuant to section

401(a)(9) of the Internal Revenue Code and the regulations issued thereunder, April 1 of the year following the calendar year in which a member:

- (a)(i) Terminated employment with the State of Nebraska; and
- (ii)(A) Attained at least seventy and one-half years of age for a member who attained seventy and one-half years of age on or before December 31, 2019;
- (B) Attained at least seventy-two years of age for a member who attained seventy and one-half years of age on or after January 1, 2020, and prior to January 1, 2023;
- (C) Attained at least seventy-three years of age for a member who attained seventy-two years of age after December 31, 2022, and seventy-three years of age prior to January 1, 2033; or
- (D) Attained at least seventy-five years of age for a member who attained seventy-four years of age after December 31, 2032; or

- (b)(i) Terminated employment with the State of Nebraska; and
- (ii) Otherwise reached the date specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder;

(22) 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;

(23) Retirement date means (a) the first day of the month following the date upon which a member's request for retirement is received on a retirement application if the member is eligible for retirement and has terminated employment or (b) the first day of the month following termination of employment if the member is eligible for retirement and has filed an application but has not yet terminated employment;

(24) Retirement system or system means the Nebraska Judges Retirement System as provided in the Judges Retirement Act;

(25) 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 the 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; and

(26) Termination of employment occurs on the date on which the State Court Administrator's office determines that the judge's employer-employee relationship with the State of Nebraska is dissolved. The State Court Administrator's office shall notify the board of the date on which such a termination has occurred. Termination of employment does not include ceasing employment as a judge if the judge returns to regular employment as a judge or is employed on a regular basis by another agency of the State of Nebraska and there are less than one hundred twenty days between the date when the judge's employer-employee relationship ceased and the date when the employer-employee relationship recommences. It is the responsibility of the employer that is involved in the termination of employment to notify the board of such change in

employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a retirement benefit has been paid to a member of the retirement system pursuant to section 24-710, the board shall require the member who has received such benefit to repay the benefit to the retirement system.

Source: Laws 1955, c. 83, § 1, p. 244; Laws 1957, c. 78, § 1, p. 315; Laws 1957, c. 79, § 1, p. 318; Laws 1959, c. 95, § 1, p. 409; Laws 1959, c. 189, § 13, p. 687; Laws 1965, c. 115, § 1, p. 440; Laws 1969, c. 178, § 1, p. 759; Laws 1971, LB 987, § 4; Laws 1972, LB 1032, § 120; Laws 1973, LB 226, § 10; Laws 1974, LB 905, § 3; Laws 1983, LB 223, § 1; Laws 1984, LB 13, § 32; Laws 1984, LB 750, § 1; Laws 1986, LB 92, § 1; Laws 1986, LB 311, § 9; Laws 1986, LB 351, § 1; Laws 1986, LB 529, § 17; Laws 1986, LB 811, § 12; Laws 1989, LB 506, § 2; Laws 1991, LB 549, § 15; Laws 1991, LB 732, § 36; Laws 1992, LB 682, § 1; Laws 1994, LB 833, § 12; Laws 1996, LB 700, § 1; Laws 1996, LB 847, § 11; Laws 1996, LB 1076, § 8; Laws 1996, LB 1273, § 19; Laws 1997, LB 624, § 9; Laws 1999, LB 674, § 1; Laws 2000, LB 1192, § 4; Laws 2001, LB 408, § 6; Laws 2003, LB 451, § 14; Laws 2011, LB6, § 1; Laws 2012, LB916, § 14; Laws 2013, LB263, § 10; Laws 2015, LB468, § 1; Laws 2016, LB790, § 2; Laws 2017, LB415, § 18; Laws 2020, LB1054, § 5; Laws 2021, LB17, § 1; Laws 2023, LB103, § 5.

Operative date May 2, 2023.

Cross References

Spousal Pension Rights Act, see section 42-1101.

24-710.01 Judges; alternative contribution rate and retirement benefit; election; notice.

Any original member, as defined in section 24-701, who has not previously retired, may elect to make contributions and receive benefits pursuant to subsection (2) of section 24-703 and subsection (2) of section 24-710, instead of those provided by subsection (1) of section 24-703 and subsection (1) of section 24-710. Such election shall be by written notice delivered to the board not later than November 1, 1981. Such member shall thereafter be considered a future member.

Source: Laws 1977, LB 344, § 1; Laws 1981, LB 459, § 5; Laws 1986, LB 92, § 6; Laws 2016, LB790, § 3; Laws 2017, LB415, § 20; Laws 2023, LB103, § 6.

Operative date May 2, 2023.

24-710.04 Reemployment; military service; credit; effect; applicability.

(1) Any judge who returns to service as a judge for the State of Nebraska pursuant to 38 U.S.C. 4301 et seq., shall be treated as not having incurred a break in service by reason of the judge's period of military service. Such military service shall be credited for purposes of determining the nonforfeitability of the member's accrued benefits and the accrual of benefits under the plan.

(2) The state shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service. To satisfy the liability, the

State Court Administrator shall pay to the retirement system an amount equal to:

(a) The sum of the judge’s contributions that would have been paid during such period of military service; and

(b) Any actuarial costs necessary to fund the obligation of the plan to provide benefits based upon such period of military service. For the purposes of determining the amount of such liability and obligation of the plan, earnings and forfeitures, gains and losses, regular interest, or interest credits that would have accrued on the judge’s contributions that are paid by the State Court Administrator pursuant to this section shall not be included.

(3) The amount required in subsection (2) of this section shall be paid to the retirement system as soon as reasonably practicable following the date the judge returns to service as a judge for the State of Nebraska, but must be paid within eighteen months of the date the board notifies the State Court Administrator of the amount due. If the State Court Administrator fails to pay the required amount within such eighteen-month period, then the State Court Administrator is also responsible for any actuarial costs and interest on actuarial costs that accrue from eighteen months after the date the State Court Administrator is notified by the board until the date the amount is paid.

(4) The board may adopt and promulgate rules and regulations to carry out this section, including, but not limited to, rules and regulations on:

(a) How and when the judge and State Court Administrator must notify the retirement system of a period of military service;

(b) The acceptable methods of payment;

(c) Determining the service and compensation upon which the contributions must be made;

(d) Accelerating the payment from the State Court Administrator due to unforeseen circumstances that occur before payment is made pursuant to this section, including, but not limited to, the judge’s termination or retirement or the court’s reorganization, consolidation, or merger; and

(e) The documentation required to substantiate that the judge returned to service as a judge for the State of Nebraska pursuant to 38 U.S.C. 4301 et seq.

(5) This section applies to military service that falls within the definition of uniformed services under 38 U.S.C. 4301 et seq., and includes (a) preparation periods prior to military service, (b) periods during military service, (c) periods of rest and recovery authorized by 38 U.S.C. 4301 et seq., after military service, (d) periods of federal military service, and (e) periods during active service of the state provided pursuant to sections 55-101 to 55-181.

Source: Laws 1996, LB 847, § 14; Laws 2017, LB415, § 21; Laws 2023, LB103, § 7.

Operative date May 2, 2023.

ARTICLE 10

COURTS, GENERAL PROVISIONS

Section

24-1008. Virtual behavioral health services; pilot program; use courthouse resources; purpose of program; report.

24-1008 Virtual behavioral health services; pilot program; use courthouse resources; purpose of program; report.

(1) The State Court Administrator shall create a pilot program to utilize physical space and information technology resources within Nebraska court-houses to serve as points of access for virtual behavioral health services for court-involved individuals.

(2) The pilot program shall be limited to a single probation district. Such district shall be chosen by the State Court Administrator in consultation with the probation administrator.

(3) The purpose of the program is to provide access to safe, confidential, and reliable behavioral health treatment via telehealth for individuals involved with the criminal justice system, either as defendants, probationers, or victims in a criminal proceeding.

(4) On or before June 1, 2024, the State Court Administrator shall electronically submit a report to the Judiciary Committee of the Legislature regarding the pilot program.

Source: Laws 2023, LB50, § 2.
Effective date September 2, 2023.

**ARTICLE 11
COURT OF APPEALS**

Section
24-1109. Clerk; reporter; State Court Administrator; duties; expenses of court; rules and regulations.

24-1109 Clerk; reporter; State Court Administrator; duties; expenses of court; rules and regulations.

The Clerk of the Supreme Court shall serve as the clerk of the Court of Appeals. The Reporter of Decisions shall serve as the reporter of the Court of Appeals. The State Court Administrator shall provide facilities, supplies, equipment, and support staff needed by the Court of Appeals. All expenses of the Court of Appeals shall be included in the budget of the Supreme Court. The Supreme Court shall adopt and promulgate rules to implement sections 24-1101 to 24-1109.

Source: Laws 1991, LB 732, § 9; Laws 1995, LB 271, § 5; Laws 2023, LB799, § 6.
Operative date September 2, 2023.

**ARTICLE 13
PROBLEM SOLVING COURTS**

Section
24-1302. Problem solving court; establish; Supreme Court; rules; funding, legislative intent; Supreme Court Administrator; duties.

24-1302 Problem solving court; establish; Supreme Court; rules; funding, legislative intent; Supreme Court Administrator; duties.

(1) For purposes of this section, problem solving court means a drug, veterans, mental health, driving under the influence, reentry, young adult, or other problem solving court.

(2) A district, county, or juvenile court may establish a problem solving court, subject to the Supreme Court’s rules. A problem solving court shall function

within the existing structure of the court system. The goals of a problem solving court shall be consistent with any relevant standards adopted by the United States Department of Justice and the National Association of Drug Court Professionals, as such standards existed on January 1, 2023.

(3) An individual may participate in a problem solving court as a condition of probation, as a sentence imposed by a court, or as otherwise provided by the Supreme Court's rules.

(4) Problem solving courts shall be subject to rules which shall be promulgated by the Supreme Court for procedures to be implemented in the administration of such courts.

(5) It is the intent of the Legislature that funds be appropriated separately to the Supreme Court such that each judicial district may operate at least one drug, veterans, mental health, driving under the influence, reentry, and young adult problem solving court. The State Court Administrator shall ensure that each judicial district has at least one of such courts by January 1, 2024.

(6) The State Court Administrator shall track and evaluate outcomes of problem solving courts. On or before June 1, 2024, and on or before each June 1 thereafter, the State Court Administrator shall electronically submit a report to the Legislature regarding the impact of problem solving courts on recidivism rates in the state. The report shall also include rates of return to court and program completion. The report shall identify judicial districts that are underserved by problem solving courts and what services or funding are needed to properly serve such districts.

Source: Laws 2004, LB 454, § 2; Laws 2008, LB1014, § 7; Laws 2016, LB919, § 2; Laws 2023, LB50, § 1.
Effective date September 2, 2023.

CHAPTER 25

COURTS; CIVIL PROCEDURE

Article.

- 3. Parties. 25-323, 25-331.
- 18. Expenses and Attorney's Fees. 25-1810.
- 21. Actions and Proceedings in Particular Cases.
 - (hh) Change of Name. 25-21,273.

ARTICLE 3

PARTIES

Section

- 25-323. Necessary parties; brought into suit.
- 25-331. Third-party action; procedure.

25-323 Necessary parties; brought into suit.

The court may determine any controversy between parties before it when it can be done without prejudice to the rights of others or by saving their rights; but when a determination of the controversy cannot be had without the presence of other parties, the court shall order them to be brought in.

Source: R.S.1867, Code § 46, p. 400; R.S.1913, § 7604; C.S.1922, § 8547; C.S.1929, § 20-323; R.S.1943, § 25-323; Laws 1995, LB 411, § 1; Laws 2002, LB 876, § 8; Laws 2023, LB157, § 2.
Operative date September 2, 2023.

25-331 Third-party action; procedure.

(1)(a) A defending party may, as a third-party plaintiff, serve a summons and complaint on a nonparty:

(i) Who is or may be liable to the defending party for all or part of the claim against the defending party; or

(ii) Whose negligence was or may have been a proximate cause of the transaction or occurrence that is the subject matter of the plaintiff's claim and who is not precluded by section 25-21,185.11 from being made a party.

(b) The third-party plaintiff shall, by motion, obtain the court's leave if the third-party plaintiff files the third-party complaint more than fourteen days after serving its original answer.

(c) The person served with the summons and third-party complaint, hereinafter called the third-party defendant, has all the rights and obligations of a defendant, including those created by this section and by the rules promulgated by the Supreme Court pursuant to sections 25-801.01 and 25-1273.01.

(d) The third-party defendant may assert against the plaintiff any defense that the third-party plaintiff has to the plaintiff's claim. The third-party defendant may also assert against the plaintiff any claim arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff.

(e) The plaintiff may assert against the third-party defendant any claim arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff.

(f) A defending party may assert against the third-party defendant a claim that the third-party defendant is liable to the defending party for all or part of the claim against the defending party.

(g) A third-party defendant may bring in a nonparty if subdivision (1)(a) of this section would allow a defending party to do so.

(h) Any party may move to strike the third-party claim, to sever it, or try it separately.

(2) When a claim is asserted against a plaintiff, the plaintiff may bring in a nonparty if subdivision (1)(a) of this section would allow a defending party to do so.

Source: Laws 1967, c. 144, § 1, p. 441; Laws 2002, LB 876, § 11; Laws 2023, LB157, § 3.

Operative date September 2, 2023.

ARTICLE 18

EXPENSES AND ATTORNEY'S FEES

Section

25-1810. Civil action or proceeding; appeal; award of attorney's fees by appellate court, when.

25-1810 Civil action or proceeding; appeal; award of attorney's fees by appellate court, when.

A statute that authorizes the award of attorney's fees to a party in a civil action or proceeding also authorizes an appellate court to award attorney's fees if the party prevails on an appeal from a judgment or order in the action or proceeding. This section does not apply if another section of law specifically authorizes or prohibits the award of attorney's fees on an appeal from such a judgment or order.

Source: Laws 2023, LB157, § 1.

Operative date September 2, 2023.

ARTICLE 21

ACTIONS AND PROCEEDINGS IN PARTICULAR CASES

(hh) CHANGE OF NAME

Section

25-21,273. Change of name; effect; costs; how taxed; exception.

(hh) CHANGE OF NAME

25-21,273 Change of name; effect; costs; how taxed; exception.

(1) Unless the petitioner is allowed to proceed in forma pauperis in accordance with sections 25-2301 to 25-2310, all proceedings under sections 25-21,270 to 25-21,272 shall be at the cost of the petitioner, for which fee-bill or execution may issue as in civil cases.

(2) Any change of names under such sections shall not in any manner affect or alter any right of action, legal process, or property.

Source: Laws 1871, p. 63; R.S.1913, § 5318; C.S.1922, § 4611; C.S.1929, § 61-104; R.S.1943, § 61-104; R.S.1943, (1996), § 61-104; Laws 2023, LB157, § 4.

Operative date September 2, 2023.

CHAPTER 27

COURTS; RULES OF EVIDENCE

Article.

8. Hearsay. 27-803.
9. Authentication and Identification. 27-902.

ARTICLE 8

HEARSAY

Section

- 27-803. Rule 803. Hearsay exceptions; enumerated; availability of declarant immaterial.

27-803 Rule 803. Hearsay exceptions; enumerated; availability of declarant immaterial.

Subject to the provisions of section 27-403, the following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(1) A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it;

(2) A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition;

(3) A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will;

(4) Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment;

(5) A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable him or her to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in his or her memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party;

(6)(a) A memorandum, report, record, or data compilation, in any form, of acts, events, or conditions, other than opinions or diagnoses, made at or near the time of such acts, events, or conditions, in the course of a regularly conducted activity, if it was the regular course of such activity to make such memorandum, report, record, or data compilation at the time of such act, event, or condition, or within a reasonable time thereafter, as shown by the testimony of the custodian or other qualified witness or by a certification that complies with subdivision (11) or (12) of section 27-902 or with a statute permitting certification, unless the source of information or method or circum-

stances of preparation indicate lack of trustworthiness. The circumstances of the making of such memorandum, report, record, or data compilation, including lack of personal knowledge by the entrant or maker, may be shown to affect its weight.

(b) A memorandum, report, record, or data compilation, in any form, of acts, events, or conditions, other than opinions or diagnoses, that was received or acquired in the regular course of business by an entity from another entity and has been incorporated into and kept in the regular course of business of the receiving or acquiring entity; that the receiving or acquiring entity typically relies upon the accuracy of the contents of the memorandum, report, record, or data compilation; and that the circumstances otherwise indicate the trustworthiness of the memorandum, report, record, or data compilation, as shown by the testimony of the custodian or other qualified witness. Subdivision (6)(b) of this section shall not apply in any criminal proceeding;

(7) Evidence that a matter is not included in the memoranda, reports, records, or data compilations, in any form, kept in accordance with the provisions of subdivision (6) of this section to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate a lack of trustworthiness;

(8) Upon reasonable notice to the opposing party prior to trial, records, reports, statements, or data compilations made by a public official or agency of facts required to be observed and recorded pursuant to a duty imposed by law, unless the sources of information or the method or circumstances of the investigation are shown by the opposing party to indicate a lack of trustworthiness;

(9) Records or data compilations, in any form, of births, fetal deaths, deaths, or marriages, if the report thereof was made to a public office pursuant to requirements of law;

(10) To prove the absence of a record, report, statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data compilation, in any form, was regularly made and preserved by a public office or agency, evidence in the form of a certification in accordance with section 27-902, or testimony, that diligent search failed to disclose the record, report, statement, or data compilation or entry;

(11) Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization;

(12) Statements of fact contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a member of the clergy, public official, or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter;

(13) Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history contained in family Bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts, or tombstones or the like;

(14) The record of a document purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office and an applicable statute authorized the recording of documents of that kind in that office;

(15) A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document;

(16) Statements in a document in existence thirty years or more whose authenticity is established;

(17) Market quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations;

(18) Statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice, to the extent called to the attention of an expert witness upon cross-examination or relied upon by the expert witness in direct examination. If admitted, the statements may be read into evidence but may not be received as exhibits;

(19) Reputation among members of his or her family by blood, adoption, or marriage, or among his or her associates, or in the community, concerning a person's birth, adoption, marriage, divorce, death, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of his or her personal or family history;

(20) Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community, and reputation as to events of general history important to the community or state or nation in which located;

(21) Reputation of a person's character among his or her associates or in the community;

(22) Evidence of a final judgment, entered after a trial or upon a plea of guilty (but not upon a plea of nolo contendere), adjudging a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the government in a criminal prosecution for purposes other than impeachment, judgments against a person other than the accused. The pendency of an appeal may be shown but does not affect admissibility;

(23) Judgments as proof of matters of personal, family, or general history, or boundaries, essential to the judgment, if the same would be provable by evidence of reputation; and

(24) A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (a) the statement is offered as evidence of a material fact, (b) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts, and (c) the general purposes of these rules and the interests of justice will best

be served by admission of the statement into evidence. A statement may not be admitted under this exception unless the proponent of it makes known to the adverse party, sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, his or her intention to offer the statement and the particulars of it, including the name and address of the declarant.

Source: Laws 1975, LB 279, § 57; Laws 1999, LB 64, § 1; Laws 2014, LB788, § 7; Laws 2021, LB57, § 1; Laws 2023, LB50, § 3.
Effective date September 2, 2023.

ARTICLE 9

AUTHENTICATION AND IDENTIFICATION

Section

27-902. Rule 902. Self-authentication; when.

27-902. Rule 902. Self-authentication; when.

Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

(1) A document bearing a seal purporting to be that of the United States, or of any state, district, commonwealth, territory, or insular possession thereof, or the Panama Canal Zone or the Trust Territory of the Pacific Islands, or of a political subdivision, department, officer, or agency thereof, and a signature purporting to be an attestation or execution;

(2) A document purporting to bear the signature in his or her official capacity of an officer or employee of any entity included in subdivision (1) of this section, having no seal, if a public officer having a seal and having official duties in the district or political subdivision of the officer or employee certifies under seal that the signer has the official capacity and that the signature is genuine;

(3) A document purporting to be executed or attested in his or her official capacity by a person authorized by the laws of a foreign country to make the execution or attestation, and accompanied by a final certification as to the genuineness of the signature and official position (a) of the executing or attesting person, or (b) of any foreign official whose certificate of genuineness of signature and official position relates to the execution or attestation or is in a chain of certificates of genuineness of signature and official position relating to the execution or attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of official documents, the judge may, for good cause shown, order that they be treated as presumptively authentic without final certification or permit them to be evidenced by an attested summary with or without final certification;

(4) A copy of an official record or report or entry therein, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, certified as correct by the custodian or other person authorized to make the certification, by certificate complying with subdivision (1), (2), or (3) of this section or complying with

any Act of Congress or the Legislature or rule adopted by the Supreme Court of Nebraska which are not in conflict with laws governing such matters;

(5) Books, pamphlets, or other publications purporting to be issued by public authority;

(6) Printed materials purporting to be newspapers or periodicals;

(7) Inscriptions, signs, tags, or labels purporting to have been affixed in the course of business and indicating ownership, control, or origin;

(8) Documents accompanied by a certificate of acknowledgment executed in the manner provided by law by a notary public or other officer authorized by law to take acknowledgments;

(9) Commercial paper, signatures thereon, and documents relating thereto to the extent provided by general commercial law;

(10) Any signature, document, or other matter declared by Act of Congress and the laws of the State of Nebraska to be presumptively or prima facie genuine or authentic;

(11)(a) The original or a copy of a domestic record that meets the requirements of subdivision (6) of section 27-803, as shown by a certification of the custodian or another qualified person.

(b) Before the trial or hearing, the proponent must give an adverse party reasonable written notice of the intent to offer the record and must make the record and certification available for inspection so that the party has a fair opportunity to challenge them on the ground that the sources of information or the method or circumstances of preparation indicate a lack of trustworthiness;

(12) In a civil case, the original or a copy of a foreign record that meets the requirements of subdivision (11)(a) of this section, modified as follows: The certification must be signed in a manner that, if falsely made, would subject the maker to a criminal penalty in the country where the certification is signed. The proponent must also meet the notice requirements of subdivision (11)(b) of this section;

(13) A record generated by an electronic process or system that produces an accurate result, as shown by a certification of a qualified person that complies with the certification requirements of subdivision (11)(a) or (12) of this section. The proponent must also meet the notice requirements of subdivision (11)(b) of this section; or

(14) Data copied from an electronic device, storage medium, or file, if authenticated by a process of digital identification, as shown by a certification of a qualified person that complies with the certification requirements of subdivision (11)(a) or (12) of this section. The proponent must also meet the notice requirements of subdivision (11)(b) of this section.

Source: Laws 1975, LB 279, § 62; Laws 2023, LB50, § 4.
Effective date September 2, 2023.

Cross References

Ordinances of city of the primary class, see section 15-402.

CHAPTER 28

CRIMES AND PUNISHMENTS

Article.

1. Provisions Applicable to Offenses Generally.
 - (a) General Provisions. 28-101.
4. Drugs and Narcotics. 28-405 to 28-470.
5. Offenses against Property. 28-518.
12. Offenses against Public Health and Safety. 28-1201 to 28-1205.
13. Miscellaneous Offenses.
 - (r) Unlawful Membership Recruitment. 28-1351.
 - (s) Public Protection Act. 28-1354.

ARTICLE 1

PROVISIONS APPLICABLE TO OFFENSES GENERALLY

(a) GENERAL PROVISIONS

Section

28-101. Code, how cited.

(a) GENERAL PROVISIONS

28-101 Code, how cited.

Sections 28-101 to 28-1357, 28-1601 to 28-1603, and 28-1701 shall be known and may be cited as the Nebraska Criminal Code.

Source: Laws 1977, LB 38, § 1; Laws 1980, LB 991, § 8; Laws 1982, LB 465, § 1; Laws 1985, LB 371, § 1; Laws 1985, LB 406, § 1; Laws 1986, LB 956, § 12; Laws 1986, LB 969, § 1; Laws 1987, LB 451, § 1; Laws 1988, LB 170, § 1; Laws 1988, LB 463, § 41; Laws 1989, LB 372, § 1; Laws 1990, LB 50, § 10; Laws 1990, LB 571, § 2; Laws 1990, LB 1018, § 1; Laws 1991, LB 135, § 1; Laws 1991, LB 477, § 2; Laws 1992, LB 1098, § 5; Laws 1992, LB 1184, § 8; Laws 1994, LB 988, § 1; Laws 1994, LB 1035, § 1; Laws 1994, LB 1129, § 1; Laws 1995, LB 371, § 1; Laws 1995, LB 385, § 11; Laws 1996, LB 908, § 2; Laws 1997, LB 90, § 1; Laws 1997, LB 814, § 6; Laws 1998, LB 218, § 2; Laws 1999, LB 6, § 1; Laws 1999, LB 49, § 1; Laws 1999, LB 163, § 1; Laws 1999, LB 511, § 1; Laws 2002, LB 276, § 1; Laws 2002, LB 824, § 1; Laws 2003, LB 17, § 1; Laws 2003, LB 43, § 8; Laws 2003, LB 273, § 2; Laws 2004, LB 943, § 1; Laws 2006, LB 57, § 1; Laws 2006, LB 287, § 4; Laws 2006, LB 1086, § 6; Laws 2006, LB 1199, § 1; Laws 2007, LB142, § 1; Laws 2008, LB764, § 1; Laws 2008, LB1055, § 1; Laws 2009, LB63, § 2; Laws 2009, LB97, § 9; Laws 2009, LB155, § 1; Laws 2010, LB252, § 1; Laws 2010, LB594, § 1; Laws 2010, LB894, § 1; Laws 2010, LB1103, § 11; Laws 2011, LB20, § 1; Laws 2011, LB226, § 1; Laws 2011, LB667, § 1; Laws 2013, LB3, § 1; Laws 2013, LB44 § 1; Laws 2014, LB403, § 1; Laws 2014, LB863, § 15; Laws 2015, LB390, § 1; Laws 2016, LB136, § 1; Laws 2016, LB934, § 1; Laws 2016,

LB1009, § 1; Laws 2016, LB1106, § 3; Laws 2017, LB289, § 2; Laws 2017, LB487, § 2; Laws 2018, LB931, § 1; Laws 2018, LB990, § 1; Laws 2019, LB7, § 1; Laws 2019, LB519, § 4; Laws 2019, LB686, § 1; Laws 2020, LB814, § 1; Laws 2020, LB881, § 6; Laws 2020, LB1152, § 14; Laws 2022, LB519, § 2; Laws 2022, LB922, § 5; Laws 2023, LB77, § 6.
Effective date September 2, 2023.

ARTICLE 4

DRUGS AND NARCOTICS

Section

- 28-405. Controlled substances; schedules; enumerated.
- 28-416. Prohibited acts; violations; penalties.
- 28-470. Naloxone; authorized activities; immunity from administrative action, criminal prosecution, or civil liability.

28-405 Controlled substances; schedules; enumerated.

The following are the schedules of controlled substances referred to in the Uniform Controlled Substances Act, unless specifically contained on the list of exempted products of the Drug Enforcement Administration of the United States Department of Justice as the list existed on January 31, 2022:

Schedule I

(a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetylmethadol;
- (2) Allylprodine;
- (3) Alphacetylmethadol, except levo-alpha-cetylmethadol which is also known as levo-alpha-acetylmethadol, levomethadyl acetate, and LAAM;
- (4) Alphameprodine;
- (5) Alphamethadol;
- (6) Benzethidine;
- (7) Betacetylmethadol;
- (8) Betameprodine;
- (9) Betamethadol;
- (10) Betaprodine;
- (11) Clonitazene;
- (12) Dextromoramide;
- (13) Difenoxin;
- (14) Diampromide;
- (15) Diethylthiambutene;
- (16) Dimenoxadol;
- (17) Dimepheptanol;
- (18) Dimethylthiambutene;
- (19) Dioxaphetyl butyrate;

- (20) Dipipanone;
- (21) Ethylmethylthiambutene;
- (22) Etonitazene;
- (23) Etoxeridine;
- (24) Furethidine;
- (25) Hydroxypethidine;
- (26) Ketobemidone;
- (27) Levomoramide;
- (28) Levophenacymorphan;
- (29) Morpheridine;
- (30) Noracymethadol;
- (31) Norlevorphanol;
- (32) Normethadone;
- (33) Norpipanone;
- (34) Phenadoxone;
- (35) Phenampromide;
- (36) Phenomorphan;
- (37) Phenoperidine;
- (38) Piritramide;
- (39) Proheptazine;
- (40) Properidine;
- (41) Propiram;
- (42) Racemoramide;
- (43) Trimeperidine;
- (44) Alpha-methylfentanyl, N-(1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl) propionanilide, 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine;
- (45) Tilidine;
- (46) 3-Methylfentanyl, N-(3-methyl-1-(2-phenylethyl)-4-piperidyl)-N-phenylpropanamide, its optical and geometric isomers, salts, and salts of isomers;
- (47) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP), its optical isomers, salts, and salts of isomers;
- (48) PEPAP, 1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine, its optical isomers, salts, and salts of isomers;
- (49) Acetyl-alpha-methylfentanyl, N-(1-(1-methyl-2-phenethyl)-4-piperidiny)-N-phenylacetamide, its optical isomers, salts, and salts of isomers;
- (50) Alpha-methylthiofentanyl, N-(1-methyl-2-(2-thienyl)ethyl-4-piperidiny)-N-phenylpropanamide, its optical isomers, salts, and salts of isomers;
- (51) Benzylfentanyl, N-(1-benzyl-4-piperidyl)-N-phenylpropanamide, its optical isomers, salts, and salts of isomers;
- (52) Beta-hydroxyfentanyl, N-(1-(2-hydroxy-2-phenethyl)-4-piperidiny)-N-phenylpropanamide, its optical isomers, salts, and salts of isomers;

(53) Beta-hydroxy-3-methylfentanyl, (other name: N-(1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidiny)-N-phenylpropanamide), its optical and geometric isomers, salts, and salts of isomers;

(54) 3-methylthiofentanyl, N-(3-methyl-1-(2-thienyl)ethyl-4-piperidiny)-N-phenylpropanamide, its optical and geometric isomers, salts, and salts of isomers;

(55) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts, and salts of isomers;

(56) Thiofentanyl, N-phenyl-N-(1-(2-thienyl)ethyl-4-piperidiny)-propanamide, its optical isomers, salts, and salts of isomers;

(57) Para-fluorofentanyl, N-(4-fluorophenyl)-N-(1-(2-phenethyl)-4-piperidiny)propanamide, its optical isomers, salts, and salts of isomers;

(58) U-47700, 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide;

(59) 4-Fluoroisobutyryl Fentanyl;

(60) Acetyl Fentanyl;

(61) Acryloylfentanyl;

(62) AH-7921; 3, 4-dichloro-N-[(1-dimethylamino) cyclohexylmethyl] benzamide;

(63) Butyryl fentanyl;

(64) Cyclopentyl fentanyl;

(65) Cyclopropyl fentanyl;

(66) Furanyl fentanyl;

(67) Isobutyryl fentanyl;

(68) Isotonitazene;

(69) Methoxyacetyl fentanyl;

(70) MT-45; 1-cyclohexyl-4-(1,2-diphenylethyl) piperazine;

(71) Tetrahydrofuranyl fentanyl;

(72) 2-fluorofentanyl; N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl) propionamide;

(73) Ocfentanil;

(74) Ortho-Fluorofentanyl;

(75) Para-chloroisobutyryl fentanyl;

(76) Para-Fluorobutyryl Fentanyl;

(77) Valeryl fentanyl;

(78) Phenyl Fentanyl;

(79) Para-Methylfentanyl;

(80) Thiofuranyl Fentanyl;

(81) Beta-methyl Fentanyl;

(82) Beta'-Phenyl Fentanyl;

(83) Crotonyl Fentanyl;

(84) 2'-Fluoro Ortho-Fluorofentanyl;

(85) 4'-Methyl Acetyl Fentanyl;

- (86) Ortho-Fluorobutyryl Fentanyl;
- (87) Ortho-Methyl Acetylfentanyl;
- (88) Ortho-Methyl Methoxyacetyl Fentanyl;
- (89) Ortho-Fluoroacryl Fentanyl;
- (90) Fentanyl Carbamate;
- (91) Ortho-Fluoroisobutyryl Fentanyl;
- (92) Para-Fluoro Furanyl Fentanyl;
- (93) Para-Methoxybutyryl Fentanyl;
- (94) Brorphine (other name: 1-(1-(1-(4-bromophenyl) ethyl) piperidin-4-yl-1,3-dihydro-2H-benzo[D]imidazole-2-one); and
- (95) Fentanyl-related substances, their isomers, esters, ethers, salts and salts of isomers, esters, and ethers. Unless specifically excepted, listed in another schedule, or specifically named in this schedule, this includes any substance that is structurally related to fentanyl by one or more of the following modifications:
 - (A) Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;
 - (B) Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxy, hydroxyl, halo, haloalkyl, amino, or nitro groups;
 - (C) Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl, halo, haloalkyl, amino, or nitro groups;
 - (D) Replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; or
 - (E) Replacement of the N-propionyl group by another acyl group.
- (b) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - (1) Acetorphine;
 - (2) Acetyldihydrocodeine;
 - (3) Benzylmorphine;
 - (4) Codeine methylbromide;
 - (5) Codeine-N-Oxide;
 - (6) Cyprenorphine;
 - (7) Desomorphine;
 - (8) Dihydromorphine;
 - (9) Drotebanol;
 - (10) Etorphine, except hydrochloride salt;
 - (11) Heroin;
 - (12) Hydromorphenol;
 - (13) Methyldesorphine;
 - (14) Methyldihydromorphine;
 - (15) Morphine methylbromide;
 - (16) Morphine methylsulfonate;

- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Pholcodine; and
- (23) Thebacon.

(c) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and, for purposes of this subdivision only, isomer shall include the optical, position, and geometric isomers:

(1) Bufotenine. Trade and other names shall include, but are not limited to: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indole; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; and mappine;

(2) 4-bromo-2,5-dimethoxyamphetamine. Trade and other names shall include, but are not limited to: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; and 4-bromo-2,5-DMA;

(3) 4-methoxyamphetamine. Trade and other names shall include, but are not limited to: 4-methoxy-alpha-methylphenethylamine; and paramethoxyamphetamine, PMA;

(4) 4-methyl-2,5-dimethoxyamphetamine. Trade and other names shall include, but are not limited to: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; DOM; and STP;

(5) Para-methoxymethamphetamine. Trade and other names shall include, but are not limited to: 1-(4-Methoxyphenyl)-N-methylpropan-2-amine, PMMA, and 4-MMA;

(6) Ibogaine. Trade and other names shall include, but are not limited to: 7-Ethyl-6,6beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido (1',2':1,2) azepino (5,4-b) indole; and Tabernanthe iboga;

- (7) Lysergic acid diethylamide;
- (8) Marijuana;
- (9) Mescaline;
- (10) Methoxetamine (MXE);

(11) Peyote. Peyote shall mean all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant or its seeds or extracts;

- (12) Psilocybin;
- (13) Psilocyn;

(14) Tetrahydrocannabinols, including, but not limited to, synthetic equivalents of the substances contained in the plant or in the resinous extractives of cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

Delta 1 cis or trans tetrahydrocannabinol and their optical isomers, excluding dronabinol in a drug product approved by the federal Food and Drug Administration; Delta 6 cis or trans tetrahydrocannabinol and their optical isomers; and Delta 3,4 cis or trans tetrahydrocannabinol and its optical isomers. Since nomenclature of these substances is not internationally standardized, compounds of these structures shall be included regardless of the numerical designation of atomic positions covered. Tetrahydrocannabinols does not include cannabidiol contained in a drug product approved by the federal Food and Drug Administration;

(15) N-ethyl-3-piperidyl benzilate;

(16) N-methyl-3-piperidyl benzilate;

(17) Thiophene analog of phencyclidine. Trade and other names shall include, but are not limited to: 1-(1-(2-thienyl)-cyclohexyl)-piperidine; 2-thienyl analog of phencyclidine; TPCP; and TCP;

(18) Hashish or concentrated cannabis;

(19) Parahexyl. Trade and other names shall include, but are not limited to: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo(b,d)pyran; and Synhexyl;

(20) Ethylamine analog of phencyclidine. Trade and other names shall include, but are not limited to: N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; and PCE;

(21) Pyrrolidine analog of phencyclidine. Trade and other names shall include, but are not limited to: 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy; and PHP;

(22) Alpha-ethyltryptamine. Some trade or other names: etryptamine; Monase; alpha-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; and AET;

(23) 2,5-dimethoxy-4-ethylamphet-amine; and DOET;

(24) 1-(1-(2-thienyl)cyclohexyl)pyrrolidine; and TCPy;

(25) Alpha-methyltryptamine, which is also known as AMT;

(26) *Salvia divinorum* or Salvinorin A. *Salvia divinorum* or Salvinorin A includes all parts of the plant presently classified botanically as *Salvia divinorum*, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, derivative, mixture, or preparation of such plant, its seeds, or its extracts, including salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation;

(27) Any material, compound, mixture, or preparation containing any quantity of synthetically produced cannabinoids as listed in subdivisions (A) through (L) of this subdivision, including their salts, isomers, salts of isomers, and nitrogen, oxygen, or sulfur-heterocyclic analogs, unless specifically excepted elsewhere in this section. Since nomenclature of these synthetically produced cannabinoids is not internationally standardized and may continually evolve, these structures or compounds of these structures shall be included under this subdivision, regardless of their specific numerical designation of atomic positions covered, so long as it can be determined through a recognized method of

scientific testing or analysis that the substance contains properties that fit within one or more of the following categories:

(A) Tetrahydrocannabinols: Meaning tetrahydrocannabinols naturally contained in a plant of the genus *cannabis* (*cannabis* plant), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of *cannabis*, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: Delta 1 *cis* or *trans* tetrahydrocannabinol, and their optical isomers; Delta 6 *cis* or *trans* tetrahydrocannabinol, and their optical isomers; Delta 3,4 *cis* or *trans* tetrahydrocannabinol, and its optical isomers. This subdivision does not include cannabidiol contained in a drug product approved by the federal Food and Drug Administration;

(B) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 2-(4-morpholinyl)ethyl group, cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in or on any of the listed ring systems to any extent;

(C) Naphthylmethylindoles: Any compound containing a 1 H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 2-(4-morpholinyl)ethyl group, cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in or on any of the listed ring systems to any extent;

(D) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 2-(4-morpholinyl)ethyl group, cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in or on any of the listed ring systems to any extent;

(E) Naphthylideneindenes: Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 2-(4-morpholinyl)ethyl group, cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in or on any of the listed ring systems to any extent;

(F) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 2-(4-morpholinyl)ethyl group, cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in or on any of the listed ring systems to any extent;

(G) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl,

2-(4-morpholinyl)ethyl group, cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not substituted in or on any of the listed ring systems to any extent;

(H) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 2-(4-morpholinyl)ethyl group, cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in or on any of the listed ring systems to any extent;

(I) Adamantoylindoles: Any compound containing a 3-adamantoylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in or on any of the listed ring systems to any extent;

(J) Tetramethylcyclopropanoylindoles: Any compound containing a 3-tetramethylcyclopropanoylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in or on any of the listed ring systems to any extent;

(K) Indole carboxamides: Any compound containing a 1-indole-3-carboxamide structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, substitution at the carboxamide group by an alkyl, methoxy, benzyl, propionaldehyde, adamantyl, 1-naphthyl, phenyl, aminoalkyl group, or quinolinyl group, whether or not further substituted in or on any of the listed ring systems to any extent or to the adamantyl, 1-naphthyl, phenyl, aminoalkyl, benzyl, or propionaldehyde groups to any extent;

(L) Indole carboxylates: Any compound containing a 1-indole-3-carboxylate structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, substitution at the carboxylate group by an alkyl, methoxy, benzyl, propionaldehyde, adamantyl, 1-naphthyl, phenyl, aminoalkyl group, or quinolinyl group, whether or not further substituted in or on any of the listed ring systems to any extent or to the adamantyl, 1-naphthyl, phenyl, aminoalkyl, benzyl, or propionaldehyde groups to any extent; and

(M) Any nonnaturally occurring substance, chemical compound, mixture, or preparation, not specifically listed elsewhere in these schedules and which is not approved for human consumption by the federal Food and Drug Administration, containing or constituting a cannabinoid receptor agonist as defined in section 28-401;

(28) Zipeprol 1-methoxy-3-[4-(2-methoxy-2-phenylethyl)piperazin-1-yl]-1-phenylpropan-2-ol, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation;

(29) Any material, compound, mixture, or preparation containing any quantity of a substituted phenethylamine as listed in subdivisions (A) through (C) of this subdivision, unless specifically excepted, listed in another schedule, or specifically named in this schedule, that is structurally derived from phenylethan-2-amine by substitution on the phenyl ring with a fused methylenedioxy ring, fused furan ring, or a fused tetrahydrofuran ring; by substitution with two alkoxy groups; by substitution with one alkoxy and either one fused furan, tetrahydrofuran, or tetrahydropyran ring system; or by substitution with two fused ring systems from any combination of the furan, tetrahydrofuran, or tetrahydropyran ring systems, whether or not the compound is further modified in any of the following ways:

(A) Substitution of the phenyl ring by any halo, hydroxyl, alkyl, trifluoromethyl, alkoxy, or alkylthio groups; (B) substitution at the 2-position by any alkyl groups; or (C) substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, hydroxybenzyl, or methoxybenzyl groups, and including, but not limited to:

(i) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine, which is also known as 2C-C or 2,5-Dimethoxy-4-chlorophenethylamine;

(ii) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine, which is also known as 2C-D or 2,5-Dimethoxy-4-methylphenethylamine;

(iii) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine, which is also known as 2C-E or 2,5-Dimethoxy-4-ethylphenethylamine;

(iv) 2-(2,5-Dimethoxyphenyl)ethanamine, which is also known as 2C-H or 2,5-Dimethoxyphenethylamine;

(v) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine, which is also known as 2C-I or 2,5-Dimethoxy-4-iodophenethylamine;

(vi) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine, which is also known as 2C-N or 2,5-Dimethoxy-4-nitrophenethylamine;

(vii) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine, which is also known as 2C-P or 2,5-Dimethoxy-4-propylphenethylamine;

(viii) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine, which is also known as 2C-T-2 or 2,5-Dimethoxy-4-ethylthiophenethylamine;

(ix) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine, which is also known as 2C-T-4 or 2,5-Dimethoxy-4-isopropylthiophenethylamine;

(x) 2-(4-bromo-2,5-dimethoxyphenyl)ethanamine, which is also known as 2C-B or 2,5-Dimethoxy-4-bromophenethylamine;

(xi) 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine, which is also known as 2C-T or 4-methylthio-2,5-dimethoxyphenethylamine;

(xii) 1-(2,5-dimethoxy-4-iodophenyl)-propan-2-amine, which is also known as DOI or 2,5-Dimethoxy-4-iodoamphetamine;

(xiii) 1-(4-Bromo-2,5-dimethoxyphenyl)-2-aminopropane, which is also known as DOB or 2,5-Dimethoxy-4-bromoamphetamine;

(xiv) 1-(4-chloro-2,5-dimethoxy-phenyl)propan-2-amine, which is also known as DOC or 2,5-Dimethoxy-4-chloroamphetamine;

- (xv) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine, which is also known as 2C-B-NBOMe; 25B-NBOMe or 2,5-Dimethoxy-4-bromo-N-(2-methoxybenzyl)phenethylamine;
- (xvi) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine, which is also known as 2C-I-NBOMe; 25I-NBOMe or 2,5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)phenethylamine;
- (xvii) N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine, which is also known as Mescaline-NBOMe or 3,4,5-trimethoxy-N-(2-methoxybenzyl)phenethylamine;
- (xviii) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine, which is also known as 2C-C-NBOMe; or 25C-NBOMe or 2,5-Dimethoxy-4-chloro-N-(2-methoxybenzyl)phenethylamine;
- (xix) 2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine, which is also known as 2CB-5-hemiFLY;
- (xx) 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-yl)ethanamine, which is also known as 2C-B-FLY;
- (xxi) 2-(10-Bromo-2,3,4,7,8,9-hexahdropyrano[2,3-g]chromen-5-yl)ethanamine, which is also known as 2C-B-butterFLY;
- (xxii) N-(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7-tetrahydrobenzo[1,2-b:4,5-b']difuran-4-yl)-2-aminoethane, which is also known as 2C-B-FLY-NBOMe;
- (xxiii) 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine, which is also known as bromo-benzodifuranylisopropylamine or bromo-dragonFLY;
- (xxiv) N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine, which is also known as 2C-INBOH or 25I-NBOH;
- (xxv) 5-(2-Aminopropyl)benzofuran, which is also known as 5-APB;
- (xxvi) 6-(2-Aminopropyl)benzofuran, which is also known as 6-APB;
- (xxvii) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran, which is also known as 5-APDB;
- (xxviii) 6-(2-Aminopropyl)-2,3-dihydrobenzofuran, which is also known as 6-APDB;
- (xxix) 2,5-dimethoxy-amphetamine, which is also known as 2, 5-dimethoxy-amethylphenethylamine; 2, 5-DMA;
- (xxx) 2,5-dimethoxy-4-ethylamphetamine, which is also known as DOET;
- (xxx1) 2,5-dimethoxy-4-(n)-propylthiophenethylamine, which is also known as 2C-T-7;
- (xxx2) 5-methoxy-3,4-methylenedioxy-amphetamine;
- (xxx3) 4-methyl-2,5-dimethoxy-amphetamine, which is also known as 4-methyl-2,5-dimethoxy-amethylphenethylamine; DOM and STP;
- (xxx4) 3,4-methylenedioxy amphetamine, which is also known as MDA;
- (xxx5) 3,4-methylenedioxymethamphetamine, which is also known as MDMA;
- (xxx6) 3,4-methylenedioxy-N-ethylamphetamine, which is also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, MDE, MDEA;
- (xxx7) 3,4,5-trimethoxy amphetamine; and
- (xxx8) n-hydroxy-3, 4-Methylenedioxy-N-Hydroxyamphetamine, which is also known as N-hydroxyMDA;

(30) Any material, compound, mixture, or preparation containing any quantity of a substituted tryptamine unless specifically excepted, listed in another schedule, or specifically named in this schedule, that is structurally derived from 2-(1H-indol-3-yl)ethanamine, which is also known as tryptamine, by mono- or di-substitution of the amine nitrogen with alkyl or alkenyl groups or by inclusion of the amino nitrogen atom in a cyclic structure whether or not the compound is further substituted at the alpha position with an alkyl group or whether or not further substituted on the indole ring to any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy groups, and including, but not limited to:

- (A) 5-methoxy-N,N-diallyltryptamine, which is also known as 5-MeO-DALT;
- (B) 4-acetoxy-N,N-dimethyltryptamine, which is also known as 4-AcO-DMT or OAcetylpsilocin;
- (C) 4-hydroxy-N-methyl-N-ethyltryptamine, which is also known as 4-HO-MET;
- (D) 4-hydroxy-N,N-diisopropyltryptamine, which is also known as 4-HO-DIPT;
- (E) 5-methoxy-N-methyl-N-isopropyltryptamine, which is also known as 5-MeOMiPT;
- (F) 5-Methoxy-N,N-Dimethyltryptamine, which is also known as 5-MeO-DMT;
- (G) 5-methoxy-N,N-diisopropyltryptamine, which is also known as 5-MeO-DiPT;
- (H) Diethyltryptamine, which is also known as N,N-Diethyltryptamine, DET; and
- (I) Dimethyltryptamine, which is also known as DMT; and

(31)(A) Any substance containing any quantity of the following materials, compounds, mixtures, or structures:

- (i) 3,4-methylenedioxymethcathinone, or bk-MDMA, or methylone;
 - (ii) 3,4-methylenedioxypropylvalerone, or MDPV;
 - (iii) 4-methylmethcathinone, or 4-MMC, or mephedrone;
 - (iv) 4-methoxymethcathinone, or bk-PMMA, or PMMC, or methedrone;
 - (v) Fluoromethcathinone, or FMC;
 - (vi) Naphthylpyrovalerone, or naphyrone; or
 - (vii) Beta-keto-N-methylbenzodioxolylpropylamine or bk-MBDB or butylone;
- or

(B) Unless listed in another schedule, any substance which contains any quantity of any material, compound, mixture, or structure, other than bupropion, that is structurally derived by any means from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:

- (i) Substitution in the ring system to any extent with alkyl, alkoxy, alkylenedioxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;
- (ii) Substitution at the 3-position with an acyclic alkyl substituent; or

(iii) Substitution at the 2-amino nitrogen atom with alkyl or dialkyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amineptine 7-[(10,11-dihydro-5H-dibenzo]a,d[-cyclohepten-5-yl)amino]heptanoic acid, including its salts, isomers, and salts of isomers;

(2) Mecloqualone;

(3) Methaqualone; and

(4) Gamma-Hydroxybutyric Acid. Some other names include: GHB; Gamma-hydroxybutyrate; 4-Hydroxybutyrate; 4-Hydroxybutanoic Acid; Sodium Oxybate; and Sodium Oxybutyrate.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Fenethylamine;

(2) N-ethylamphetamine;

(3) Aminorex; aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

(4) Cathinone; 2-amino-1-phenyl-1-propanone; alpha-aminopropiophenone; 2-aminopropiophenone; and norephedrone;

(5) Methcathinone, its salts, optical isomers, and salts of optical isomers. Some other names: 2-(methylamino)-propionophenone; alpha-(methylamino)propionophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropionophenone; methylcathinone; monomethylpropion; ephedrone; N-methylcathinone; AL-464; AL-422; AL-463; UR1432; and 4-MEC;

(6) (+/-)cis-4-methylaminorex; and (+/-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine;

(7) N,N-dimethylamphetamine; N,N-alpha-trimethylbenzeneethanamine; and N,N-alpha-trimethylphenethylamine;

(8) Benzylpiperazine, 1-benzylpiperazine;

(9) 4,4'-dimethylaminorex (other names: 4,4'-DMAR, 4,5-dihydro-4-methyl-5-(4-methylphenyl)-2-oxazolamine); and

(10) N-phenyl-N'-(3-(1-phenylpropan-2-yl)-1,2,3-oxadiazol-3-ium-5-yl)carbamimidate, including its salts, isomers, and salts of isomers.

(f) Any controlled substance analogue to the extent intended for human consumption.

Schedule II

(a) Any of the following substances except those narcotic drugs listed in other schedules whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, buprenorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone and their salts, but including the following:

- (A) Raw opium;
- (B) Opium extracts;
- (C) Opium fluid;
- (D) Powdered opium;
- (E) Granulated opium;
- (F) Tincture of opium;
- (G) Codeine;
- (H) Ethylmorphine;
- (I) Etorphine hydrochloride;
- (J) Hydrocodone;
- (K) Hydromorphone;
- (L) Metopon;
- (M) Morphine;
- (N) Oxycodone;
- (O) Oxymorphone;
- (P) Oripavine;
- (Q) Thebaine; and
- (R) Dihydroetorphine;

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subdivision (1) of this subdivision, except that these substances shall not include the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with any of these substances, including cocaine or ecgonine and its salts, optical isomers, and salts of optical isomers, except that the substances shall not include decocainized coca leaves or extractions which do not contain cocaine or ecgonine; and

(5) Concentrate of poppy straw, the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.

(b) Unless specifically excepted or unless in another schedule any of the following opiates, including their isomers, esters, ethers, salts, and salts of their isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan excepted:

- (1) Alphaprodine;
- (2) Anileridine;
- (3) Bezitramide;
- (4) Diphenoxylate;

- (5) Fentanyl;
- (6) Isomethadone;
- (7) Levomethorphan;
- (8) Levorphanol;
- (9) Metazocine;
- (10) Methadone;
- (11) Methadone-intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane;
- (12) Moramide-intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;
- (13) Norfentanyl (N-phenyl-N-piperidin-4-yl) propionamide;
- (14) Oliceridine;
- (15) Pethidine or meperidine;
- (16) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (17) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (18) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (19) Phenazocine;
- (20) Piminodine;
- (21) Racemethorphan;
- (22) Racemorphan;
- (23) Dihydrocodeine;
- (24) Bulk Propoxyphene in nondosage forms;
- (25) Sufentanil;
- (26) Alfentanil;
- (27) Levo-alpha-acetylmethadol which is also known as levo-alpha-acetylmethadol, levomethadyl acetate, and LAAM;
- (28) Carfentanil;
- (29) Remifentanil;
- (30) Tapentadol; and
- (31) Thiafentanil.

(c) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (2) Phenmetrazine and its salts;
- (3) Methamphetamine, its salts, isomers, and salts of its isomers;
- (4) Methylphenidate; and
- (5) Lisdexamfetamine, its salts, isomers, and salts of its isomers.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system, including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designations:

- (1) Amobarbital;

- (2) Secobarbital;
- (3) Pentobarbital;
- (4) Phencyclidine; and
- (5) Glutethimide.
- (e) Hallucinogenic substances known as:
 - (1) Nabilone. Another name for nabilone: (+/-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-Hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo(b,d)pyran-9-one; and
 - (2) Dronabinol in an oral solution in a drug product approved by the federal Food and Drug Administration.
- (f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:
 - (1) Immediate precursor to amphetamine and methamphetamine: Phenylacetone. Trade and other names shall include, but are not limited to: Phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone;
 - (2) Immediate precursors to phencyclidine, PCP:
 - (A) 1-phenylcyclohexylamine; or
 - (B) 1-piperidinocyclohexanecarbonitrile, PCC; or
 - (3) Immediate precursor to fentanyl; 4-anilino-N-phenethylpiperidine (ANPP).

Schedule III

- (a) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system, including their salts, isomers, whether optical, position, or geometric, and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - (1) Benzphetamine;
 - (2) Chlorphentermine;
 - (3) Clortermine; and
 - (4) Phendimetrazine.
- (b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:
 - (1) Any substance which contains any quantity of a derivative of barbituric acid or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules of this section;
 - (2) Aprobarbital;
 - (3) Butabarbital;
 - (4) Butalbital;
 - (5) Butethal;
 - (6) Butobarbital;
 - (7) Chlorhexadol;
 - (8) Embutramide;

- (9) Lysergic acid;
- (10) Lysergic acid amide;
- (11) Methyprylon;
- (12) Perampanel;
- (13) Secbutabarbital;
- (14) Sulfondiethylmethane;
- (15) Sulfonethylmethane;
- (16) Sulfonmethane;
- (17) Nalorphine;
- (18) Talbutal;
- (19) Thiamylal;
- (20) Thiopental;
- (21) Vinbarbital;

(22) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;

(23) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the federal Food and Drug Administration for marketing only as a suppository;

(24) Any drug product containing gamma-hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on January 1, 2014;

(25) Ketamine, its salts, isomers, and salts of isomers. Some other names for ketamine: (+/-)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone; and

(26) Tiletamine and zolazepam or any salt thereof. Trade or other names for a tiletamine-zolazepam combination product shall include, but are not limited to: telazol. Trade or other names for tiletamine shall include, but are not limited to: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone. Trade or other names for zolazepam shall include, but are not limited to: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-(3,4-e) (1,4)-diazepin-7(1H)-one, and flupyrazapon.

(c) Unless specifically excepted or unless listed in another schedule:

(1) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(A) Not more than one and eight-tenths grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(B) Not more than one and eight-tenths grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(C) Not more than one and eight-tenths grams of dihydrocodeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(D) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(E) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams, or not more than twenty-five milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and

(F) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and

(2) Any material, compound, mixture, or preparation containing any of the following narcotic drug or its salts, as set forth below:

(A) Buprenorphine.

(d) Unless contained on the list of exempt anabolic steroids of the Drug Enforcement Administration of the United States Department of Justice as the list existed on January 31, 2022, any anabolic steroid, which shall include any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation:

- (1) 3-beta,17-dihydroxy-5a-androstane;
- (2) 3-alpha,17-beta-dihydroxy-5a-androstane;
- (3) 5-alpha-androstan-3,17-dione;
- (4) 1-androstenediol (3-beta,17-beta-dihydroxy-5-alpha-androst-1-ene);
- (5) 1-androstenediol (3-alpha,17-beta-dihydroxy-5-alpha-androst-1-ene);
- (6) 4-androstenediol (3-beta,17-beta-dihydroxy-androst-5-ene);
- (7) 5-androstenediol (3-beta,17-beta-dihydroxy-androst-5-ene);
- (8) 1-androstenedione ([5-alpha]-androst-1-en-3,17-dione);
- (9) 4-androstenedione (androst-4-en-3,17-dione);
- (10) 5-androstenedione (androst-5-en-3,17-dione);
- (11) Bolasterone (7-alpha,17-alpha-dimethyl-17-beta-hydroxyandrost-4-en-3-one);
- (12) Boldenone (17-beta-hydroxyandrost-1,4-diene-3-one);
- (13) Boldione (androsta-1,4-diene-3,17-3-one);
- (14) Calusterone (7-beta,17-alpha-dimethyl-17-beta-hydroxyandrost-4-en-3-one);
- (15) Clostebol (4-chloro-17-beta-hydroxyandrost-4-en-3-one);
- (16) Dehydrochloromethyltestosterone (4-chloro-17-beta-hydroxy-17-alpha-methyl-androst-1,4-dien-3-one);
- (17) Desoxymethyltestosterone (17-alpha-methyl-5-alpha-androst-2-en-17-beta-ol) (a.k.a. 'madol');
- (18) Delta-1-Dihydrotestosterone (a.k.a. '1-testosterone')(17-beta-hydroxy-5-alpha-androst-1-en-3-one);
- (19) 4-Dihydrotestosterone (17-beta-hydroxy-androstan-3-one);
- (20) Drostanolone (17-beta-hydroxy-2-alpha-methyl-5-alpha-androstan-3-one);

- (21) Ethylestrenol (17-alpha-ethyl-17-beta-hydroxyestr-4-ene);
- (22) Fluoxymesterone (9-fluoro-17-alpha-methyl-11-beta,17-beta-dihydroxyandrost-4-en-3-one);
- (23) Formebolone (formebolone); (2-formyl-17-alpha-methyl-11-alpha,17-beta-dihydroxyandrost-1,4-dien-3-one);
- (24) Furazabol (17-alpha-methyl-17-beta-hydroxyandrostano[2,3-c]-furazan);
- (25) 13-beta-ethyl-17-beta-hydroxygon-4-en-3-one;
- (26) 4-hydroxytestosterone (4,17-beta-dihydroxy-androst-4-en-3-one);
- (27) 4-hydroxy-19-nortestosterone (4,17-beta-dihydroxy-estr-4-en-3-one);
- (28) Mestanolone (17-alpha-methyl-17-beta-hydroxy-5-androstan-3-one);
- (29) Mesterolone (17-alpha-methyl-17-beta-hydroxy-5-androstan-3-one);
- (30) Methandienone (17-alpha-methyl-17-beta-hydroxyandrost-1,4-dien-3-one);
- (31) Methandriol (17-alpha-methyl-3-beta,17-beta-dihydroxyandrost-5-ene);
- (32) Methasterone (2-alpha,17-alpha-dimethyl-5-alpha-androstan-17-beta-ol-3-one);
- (33) Methenolone (1-methyl-17-beta-hydroxy-5-alpha-androst-1-en-3-one);
- (34) 17-alpha-methyl-3-beta,17-beta-dihydroxy-5a-androstane;
- (35) 17-alpha-methyl-3-alpha,17-beta-dihydroxy-5a-androstane;
- (36) 17-alpha-methyl-3-beta,17-beta-dihydroxyandrost-4-ene;
- (37) 17-alpha-methyl-4-hydroxynandrolone (17-alpha-methyl-4-hydroxy-17-beta-hydroxyestr-4-en-3-one);
- (38) Methyldienolone (17-alpha-methyl-17-beta-hydroxyestra-4,9(10)-dien-3-one);
- (39) Methyltrienolone (17-alpha-methyl-17-beta-hydroxyestra-4,9,11-trien-3-one);
- (40) Methyltestosterone (17-alpha-methyl-17-beta-hydroxyandrost-4-en-3-one);
- (41) Mibolerone (7-alpha,17-alpha-dimethyl-17-beta-hydroxyestr-4-en-3-one);
- (42) 17-alpha-methyl-delta-1-dihydrotestosterone (17-beta-hydroxy-17-alpha-methyl-5-alpha-androst-1-en-3-one) (a.k.a. '17-alpha-methyl-1-testosterone');
- (43) Nandrolone (17-beta-hydroxyestr-4-en-3-one);
- (44) 19-nor-4-androstenediol (3-beta, 17-beta-dihydroxyestr-4-ene);
- (45) 19-nor-4-androstenediol (3-alpha, 17-beta-dihydroxyestr-4-ene);
- (46) 19-nor-5-androstenediol (3-beta, 17-beta-dihydroxyestr-5-ene);
- (47) 19-nor-5-androstenediol (3-alpha, 17-beta-dihydroxyestr-5-ene);
- (48) 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione);
- (49) 19-nor-4-androstenedione (estr-4-en-3,17-dione);
- (50) 19-nor-5-androstenedione (estr-5-en-3,17-dione);
- (51) Norbolethone (13-beta, 17-alpha-diethyl-17-beta-hydroxygon-4-en-3-one);
- (52) Norclostebol (4-chloro-17-beta-hydroxyestr-4-en-3-one);
- (53) Norethandrolone (17-alpha-ethyl-17-beta-hydroxyestr-4-en-3-one);
- (54) Normethandrolone (17-alpha-methyl-17-beta-hydroxyestr-4-en-3-one);

- (55) Oxandrolone (17-alpha-methyl-17-beta-hydroxy-2-oxa-[5-alpha]-androst-3-one);
- (56) Oxymesterone (17-alpha-methyl-4,17-beta-dihydroxyandrost-4-en-3-one);
- (57) Oxymetholone (17-alpha-methyl-2-hydroxymethylene-17-beta-hydroxy-[5-alpha]-androst-3-one);
- (58) Prostanazol (17-beta-hydroxy-5-alpha-androstano[3,2-c]pyrazole);
- (59) Stanozolol (17-alpha-methyl-17-beta-hydroxy-[5-alpha]-androst-2-eno[3,2-c]-pyrazole);
- (60) Stenbolone (17-beta-hydroxy-2-methyl-[5-alpha]-androst-1-en-3-one);
- (61) Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);
- (62) Testosterone (17-beta-hydroxyandrost-4-en-3-one);
- (63) Tetrahydrogestrinone (13-beta, 17-alpha-diethyl-17-beta-hydroxygon-4,9,11-trien-3-one);
- (64) Trenbolone (17-beta-hydroxyestr-4,9,11-trien-3-one);
- (65) [3,2-c]-furazan-5 alpha-androstane-17 beta-ol;
- (66) [3,2-c]pyrazole-androst-4-en-17 beta-ol;
- (67) 17 alpha-methyl-androst-ene-3,17 beta-diol;
- (68) 17 alpha-methyl-androsta-1,4-diene-3,17 beta-diol;
- (69) 17 alpha-methyl-androstan-3-hydroxyimine-17 beta-ol;
- (70) 17 beta-hydroxy-androstano[2,3-d]isoxazole;
- (71) 17 beta-hydroxy-androstano[3,2-c]isoxazole;
- (72) 18a-homo-3-hydroxy-estra-2,5(10)-dien-17-one;
- (73) 2 alpha, 3 alpha-epithio-17 alpha-methyl-5 alpha-androstan-17 beta-ol;
- (74) 4-chloro-17 alpha-methyl-17 beta-hydroxy-androst-4-en-3-one;
- (75) 4-chloro-17 alpha-methyl-17 beta-hydroxy-androst-4-en-3,11-dione;
- (76) 4-chloro-17 alpha-methyl-androst-4-ene-3 beta,17 beta-diol;
- (77) 4-chloro-17 alpha-methyl-androsta-1,4-diene-3,17 beta-diol;
- (78) 4-hydroxy-androst-4-ene-3,17-dione;
- (79) 5 alpha-Androstan-3,6,17-trione;
- (80) 6-bromo-androst-1,4-diene-3,17-dione;
- (81) 6-bromo-androstan-3,17-dione;
- (82) 6 alpha-methyl-androst-4-ene-3,17-dione;
- (83) Delta 1-dihydrotestosterone;
- (84) Estra-4,9,11-triene-3,17-dione; and
- (85) Any salt, ester, or ether of a drug or substance described or listed in this subdivision if the salt, ester, or ether promotes muscle growth.

(e) Hallucinogenic substances known as:

- (1) Dronabinol, synthetic, in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the federal Food and Drug Administration. Some other names for dronabinol are (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo (b,d)pyran-1-ol or (-)-delta-9-(trans)-tetrahydrocannabinol.

Schedule IV

(a) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Barbitol;
- (2) Chloral betaine;
- (3) Chloral hydrate;
- (4) Chlordiazepoxide, but not including librax (chlordiazepoxide hydrochloride and clindinium bromide) or menrium (chlordiazepoxide and water soluble esterified estrogens);
- (5) Clonazepam;
- (6) Clorazepate;
- (7) Daridorexant;
- (8) Diazepam;
- (9) Ethchlorvynol;
- (10) Ethinamate;
- (11) Flurazepam;
- (12) Mebutamate;
- (13) Meprobamate;
- (14) Methohexital;
- (15) Methylphenobarbital;
- (16) Oxazepam;
- (17) Paraldehyde;
- (18) Petrichloral;
- (19) Phenobarbital;
- (20) Prazepam;
- (21) Alprazolam;
- (22) Bromazepam;
- (23) Camazepam;
- (24) Clobazam;
- (25) Clotiazepam;
- (26) Cloxazolam;
- (27) Delorazepam;
- (28) Estazolam;
- (29) Ethyl loflazepate;
- (30) Fludiazepam;
- (31) Flunitrazepam;
- (32) Halazepam;
- (33) Haloxazolam;
- (34) Ketazolam;
- (35) Loprazolam;

- (36) Lorazepam;
- (37) Lormetazepam;
- (38) Medazepam;
- (39) Nimetazepam;
- (40) Nitrazepam;
- (41) Nordiazepam;
- (42) Oxazolam;
- (43) Pinazepam;
- (44) Temazepam;
- (45) Tetrazepam;
- (46) Triazolam;
- (47) Midazolam;
- (48) Quazepam;
- (49) Zolpidem;
- (50) Dichloralphenazone;
- (51) Zaleplon;
- (52) Zopiclone;
- (53) Fospropofol;
- (54) Alfaxalone;
- (55) Suvorexant;
- (56) Carisoprodol;
- (57) Brexanolone; 3 alpha-hydroxy-5 alpha-pregnan-20-one;
- (58) Lemborexant;
- (59) Solriamfetol; 2-amino-3-phenylpropyl carbamate;
- (60) Remimazolam; and
- (61) Serdexmethylphenidate.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts, isomers, whether optical, position, or geometric, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Fenfluramine.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, whether optical, position, or geometric, and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Diethylpropion;
- (2) Phentermine;
- (3) Pemoline, including organometallic complexes and chelates thereof;
- (4) Mazindol;
- (5) Pipradrol;
- (6) SPA, ((-)-1-dimethylamino-1,2-diphenylethane);
- (7) Cathine. Another name for cathine is ((+)-norpseudoephedrine);

- (8) Fencamfamin;
- (9) Fenproporex;
- (10) Mefenorex;
- (11) Modafinil; and
- (12) Sibutramine.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following narcotic drugs, or their salts or isomers calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

- (1) Propoxyphene in manufactured dosage forms;
- (2) Not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit; and
- (3) 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers, and salts of these isomers to include: Tramadol.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts:

- (1) Pentazocine; and
- (2) Butorphanol (including its optical isomers).

(f) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Lorcaserin.

(g)(1) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts, optical isomers, and salts of such optical isomers: Ephedrine.

(2) The following drug products containing ephedrine, its salts, optical isomers, and salts of such optical isomers, are excepted from subdivision (g)(1) of Schedule IV if they (A) are stored behind a counter, in an area not accessible to customers, or in a locked case so that a customer needs assistance from an employee to access the drug product; (B) are sold by a person, eighteen years of age or older, in the course of his or her employment to a customer eighteen years of age or older with the following restrictions: No customer shall be allowed to purchase, receive, or otherwise acquire more than three and six-tenths grams of ephedrine base during a twenty-four-hour period; no customer shall purchase, receive, or otherwise acquire more than nine grams of ephedrine base during a thirty-day period; and the customer shall display a valid driver's or operator's license, a Nebraska state identification card, a military identification card, an alien registration card, or a passport as proof of identification; (C) are labeled and marketed in a manner consistent with the pertinent OTC Tentative Final or Final Monograph; (D) are manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse; and (E) are not marketed, advertised, or represented in any manner for the indication of stimulation, mental alertness, euphoria, ecstasy, a buzz or high, heightened sexual performance, or increased muscle mass:

- (i) Primatene Tablets; and

(ii) Bronkaid Dual Action Caplets.

Schedule V

(a) Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts calculated as the free anhydrous base or alkaloid, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams;

(2) Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

(3) Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(4) Not more than two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(5) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams; and

(6) Not more than five-tenths milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

(b) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers: Pyrovalerone.

(c) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Ezogabine (N-(2-amino-4-(4-fluorobenzylamino)-phenyl)-carbamic acid ethyl ester);

(2) Ganaxolone;

(3) Lacosamide ((R)-2-acetoamido-N-benzyl-3-methoxy-propionamide);

(4) Pregabalin ((S)-3-(aminomethyl)-5-methylhexanoic acid);

(5) Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl] butanamide) (also referred to as BRV; UCB-34714; Briviact), including its salts;

(6) Cenobamate; and

(7) Lasmiditan.

Source: Laws 1977, LB 38, § 65; Laws 1978, LB 748, § 50; Laws 1980, LB 696, § 2; Laws 1985, LB 323, § 2; Laws 1985, LB 406, § 3; Laws 1986, LB 1160, § 1; Laws 1987, LB 473, § 1; Laws 1990, LB 571, § 6; Laws 1992, LB 1019, § 32; Laws 1994, LB 1210, § 3; Laws 1995, LB 406, § 5; Laws 1996, LB 1213, § 4; Laws 1998, LB 1073, § 8; Laws 1999, LB 594, § 1; Laws 2000, LB 1115, § 2; Laws 2001, LB 113, § 10; Laws 2002, LB 500, § 1; Laws 2003, LB 245, § 1; Laws 2005, LB 382, § 2; Laws 2007, LB247, § 2; Laws 2008, LB902, § 1; Laws 2009, LB123, § 1; Laws 2009, LB151, § 1; Laws 2010, LB792, § 1; Laws 2011,

LB19, § 1; Laws 2012, LB670, § 1; Laws 2013, LB298, § 1; Laws 2014, LB811, § 4; Laws 2015, LB390, § 4; Laws 2017, LB487, § 5; Laws 2018, LB906, § 1; Laws 2021, LB236, § 2; Laws 2022, LB808, § 1; Laws 2023, LB157, § 6.

Operative date September 2, 2023.

28-416 Prohibited acts; violations; penalties.

(1) Except as authorized by the Uniform Controlled Substances Act, it shall be unlawful for any person knowingly or intentionally: (a) To manufacture, distribute, deliver, dispense, or possess with intent to manufacture, distribute, deliver, or dispense a controlled substance; or (b) to create, distribute, or possess with intent to distribute a counterfeit controlled substance.

(2) Except as provided in subsections (4), (5), (7), (8), (9), and (10) of this section, any person who violates subsection (1) of this section with respect to: (a) A controlled substance classified in Schedule I, II, or III of section 28-405 which is an exceptionally hazardous drug shall be guilty of a Class II felony; (b) any other controlled substance classified in Schedule I, II, or III of section 28-405 shall be guilty of a Class IIA felony; or (c) a controlled substance classified in Schedule IV or V of section 28-405 shall be guilty of a Class IIIA felony.

(3) A person knowingly or intentionally possessing a controlled substance, except marijuana or any substance containing a quantifiable amount of the substances, chemicals, or compounds described, defined, or delineated in subdivision (c)(27) of Schedule I of section 28-405, unless such substance was obtained directly or pursuant to a medical order issued by a practitioner authorized to prescribe while acting in the course of his or her professional practice, or except as otherwise authorized by the act, shall be guilty of a Class IV felony. A person shall not be in violation of this subsection if section 28-472 or 28-1701 applies.

(4)(a) Except as authorized by the Uniform Controlled Substances Act, any person eighteen years of age or older who knowingly or intentionally manufactures, distributes, delivers, dispenses, or possesses with intent to manufacture, distribute, deliver, or dispense a controlled substance or a counterfeit controlled substance (i) to a person under the age of eighteen years, (ii) in, on, or within one thousand feet of the real property comprising a public or private elementary, vocational, or secondary school, a community college, a public or private college, junior college, or university, or a playground, or (iii) within one hundred feet of a public or private youth center, public swimming pool, or video arcade facility shall be punished by the next higher penalty classification than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of this section, depending upon the controlled substance involved, for the first violation and for a second or subsequent violation shall be punished by the next higher penalty classification than that prescribed for a first violation of this subsection, but in no event shall such person be punished by a penalty greater than a Class IB felony.

(b) For purposes of this subsection:

(i) Playground means any outdoor facility, including any parking lot appurtenant to the facility, intended for recreation, open to the public, and with any portion containing three or more apparatus intended for the recreation of children, including sliding boards, swingsets, and teeterboards;

(ii) Video arcade facility means any facility legally accessible to persons under eighteen years of age, intended primarily for the use of pinball and video machines for amusement, and containing a minimum of ten pinball or video machines; and

(iii) Youth center means any recreational facility or gymnasium, including any parking lot appurtenant to the facility or gymnasium, intended primarily for use by persons under eighteen years of age which regularly provides athletic, civic, or cultural activities.

(5)(a) Except as authorized by the Uniform Controlled Substances Act, it shall be unlawful for any person eighteen years of age or older to knowingly and intentionally employ, hire, use, cause, persuade, coax, induce, entice, seduce, or coerce any person under the age of eighteen years to manufacture, transport, distribute, carry, deliver, dispense, prepare for delivery, offer for delivery, or possess with intent to do the same a controlled substance or a counterfeit controlled substance.

(b) Except as authorized by the Uniform Controlled Substances Act, it shall be unlawful for any person eighteen years of age or older to knowingly and intentionally employ, hire, use, cause, persuade, coax, induce, entice, seduce, or coerce any person under the age of eighteen years to aid and abet any person in the manufacture, transportation, distribution, carrying, delivery, dispensing, preparation for delivery, offering for delivery, or possession with intent to do the same of a controlled substance or a counterfeit controlled substance.

(c) Any person who violates subdivision (a) or (b) of this subsection shall be punished by the next higher penalty classification than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of this section, depending upon the controlled substance involved, for the first violation and for a second or subsequent violation shall be punished by the next higher penalty classification than that prescribed for a first violation of this subsection, but in no event shall such person be punished by a penalty greater than a Class IB felony.

(6) It shall not be a defense to prosecution for violation of subsection (4) or (5) of this section that the defendant did not know the age of the person through whom the defendant violated such subsection.

(7) Any person who violates subsection (1) of this section with respect to cocaine or any mixture or substance containing a detectable amount of cocaine in a quantity of:

(a) One hundred forty grams or more shall be guilty of a Class IB felony;

(b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or

(c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.

(8) Any person who violates subsection (1) of this section with respect to base cocaine (crack) or any mixture or substance containing a detectable amount of base cocaine in a quantity of:

(a) One hundred forty grams or more shall be guilty of a Class IB felony;

(b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or

(c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.

(9) Any person who violates subsection (1) of this section with respect to heroin or any mixture or substance containing a detectable amount of heroin in a quantity of:

- (a) One hundred forty grams or more shall be guilty of a Class IB felony;
- (b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or
- (c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.

(10) Any person who violates subsection (1) of this section with respect to amphetamine, its salts, optical isomers, and salts of its isomers, or with respect to methamphetamine, its salts, optical isomers, and salts of its isomers, in a quantity of:

- (a) One hundred forty grams or more shall be guilty of a Class IB felony;
- (b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or
- (c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.

(11) Any person knowingly or intentionally possessing marijuana weighing more than one ounce but not more than one pound shall be guilty of a Class III misdemeanor.

(12) Any person knowingly or intentionally possessing marijuana weighing more than one pound shall be guilty of a Class IV felony.

(13) Except as provided in section 28-1701, any person knowingly or intentionally possessing marijuana weighing one ounce or less or any substance containing a quantifiable amount of the substances, chemicals, or compounds described, defined, or delineated in subdivision (c)(27) of Schedule I of section 28-405 shall:

- (a) For the first offense, be guilty of an infraction, receive a citation, be fined three hundred dollars, and be assigned to attend a course as prescribed in section 29-433 if the judge determines that attending such course is in the best interest of the individual defendant;
- (b) For the second offense, be guilty of a Class IV misdemeanor, receive a citation, and be fined four hundred dollars and may be imprisoned not to exceed five days; and
- (c) For the third and all subsequent offenses, be guilty of a Class IIIA misdemeanor, receive a citation, be fined five hundred dollars, and be imprisoned not to exceed seven days.

(14) Any person convicted of violating this section, if placed on probation, shall, as a condition of probation, satisfactorily attend and complete appropriate treatment and counseling on drug abuse provided by a program authorized under the Nebraska Behavioral Health Services Act or other licensed drug treatment facility.

(15) Any person convicted of violating this section, if sentenced to the Department of Correctional Services, shall attend appropriate treatment and counseling on drug abuse.

(16) Any person knowingly or intentionally possessing a firearm while in violation of subsection (1) of this section shall be punished by the next higher penalty classification than the penalty prescribed in subsection (2), (7), (8), (9),

or (10) of this section, but in no event shall such person be punished by a penalty greater than a Class IB felony.

(17) A person knowingly or intentionally in possession of money used or intended to be used to facilitate a violation of subsection (1) of this section shall be guilty of a Class IV felony.

(18) In addition to the existing penalties available for a violation of subsection (1) of this section, including any criminal attempt or conspiracy to violate subsection (1) of this section, a sentencing court may order that any money, securities, negotiable instruments, firearms, conveyances, or electronic communication devices as defined in section 28-833 or any equipment, components, peripherals, software, hardware, or accessories related to electronic communication devices be forfeited as a part of the sentence imposed if it finds by clear and convincing evidence adduced at a separate hearing in the same prosecution, following conviction for a violation of subsection (1) of this section, and conducted pursuant to section 28-1601, that any or all such property was derived from, used, or intended to be used to facilitate a violation of subsection (1) of this section.

(19) In addition to the penalties provided in this section:

(a) If the person convicted or adjudicated of violating this section is eighteen years of age or younger and has one or more licenses or permits issued under the Motor Vehicle Operator's License Act:

(i) For the first offense, the court may, as a part of the judgment of conviction or adjudication, (A) impound any such licenses or permits for thirty days and (B) require such person to attend a drug education class;

(ii) For a second offense, the court may, as a part of the judgment of conviction or adjudication, (A) impound any such licenses or permits for ninety days and (B) require such person to complete no fewer than twenty and no more than forty hours of community service and to attend a drug education class; and

(iii) For a third or subsequent offense, the court may, as a part of the judgment of conviction or adjudication, (A) impound any such licenses or permits for twelve months and (B) require such person to complete no fewer than sixty hours of community service, to attend a drug education class, and to submit to a drug assessment by a licensed alcohol and drug counselor; and

(b) If the person convicted or adjudicated of violating this section is eighteen years of age or younger and does not have a permit or license issued under the Motor Vehicle Operator's License Act:

(i) For the first offense, the court may, as part of the judgment of conviction or adjudication, (A) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until thirty days after the date of such order and (B) require such person to attend a drug education class;

(ii) For a second offense, the court may, as part of the judgment of conviction or adjudication, (A) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until ninety days after the date of such order and (B) require such person to complete no fewer than twenty hours and no more than forty hours of community service and to attend a drug education class; and

(iii) For a third or subsequent offense, the court may, as part of the judgment of conviction or adjudication, (A) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until twelve months after the date of such order and (B) require such person to complete no fewer than sixty hours of community service, to attend a drug education class, and to submit to a drug assessment by a licensed alcohol and drug counselor.

A copy of an abstract of the court's conviction or adjudication shall be transmitted to the Director of Motor Vehicles pursuant to sections 60-497.01 to 60-497.04 if a license or permit is impounded or a juvenile is prohibited from obtaining a license or permit under this subsection.

Source: Laws 1977, LB 38, § 76; Laws 1978, LB 808, § 2; Laws 1980, LB 696, § 3; Laws 1985, LB 406, § 4; Laws 1986, LB 504, § 1; Laws 1989, LB 592, § 2; Laws 1991, LB 742, § 1; Laws 1993, LB 117, § 2; Laws 1995, LB 371, § 6; Laws 1997, LB 364, § 8; Laws 1999, LB 299, § 1; Laws 2001, LB 398, § 14; Laws 2003, LB 46, § 1; Laws 2004, LB 1083, § 86; Laws 2005, LB 117, § 3; Laws 2008, LB844, § 1; Laws 2010, LB800, § 4; Laws 2011, LB19, § 2; Laws 2011, LB463, § 1; Laws 2013, LB298, § 2; Laws 2015, LB605, § 26; Laws 2016, LB1106, § 5; Laws 2017, LB487, § 6; Laws 2022, LB519, § 4; Laws 2022, LB808, § 2; Laws 2023, LB157, § 7.

Operative date September 2, 2023.

Cross References

Motor Vehicle Operator's License Act, see section 60-462.
Nebraska Behavioral Health Services Act, see section 71-801.

28-470 Naloxone; authorized activities; immunity from administrative action, criminal prosecution, or civil liability.

(1) A health professional who is authorized to prescribe or dispense naloxone, if acting with reasonable care, may prescribe, administer, or dispense naloxone to any of the following persons without being subject to administrative action or criminal prosecution:

(a) A person who is apparently experiencing or who is likely to experience an opioid-related overdose; or

(b) A family member, friend, or other person in a position to assist a person who is apparently experiencing or who is likely to experience an opioid-related overdose.

(2) A family member, friend, or other person, including school personnel, who is in a position to assist a person who is apparently experiencing or who is likely to experience an opioid-related overdose, other than an emergency responder or peace officer, is not subject to actions under the Uniform Credentialing Act, administrative action, or criminal prosecution if the person, acting in good faith, obtains naloxone from a health professional or a prescription for naloxone from a health professional and administers the naloxone obtained from the health professional or acquired pursuant to the prescription to a person who is apparently experiencing an opioid-related overdose.

(3) An emergency responder who, acting in good faith, obtains naloxone from the emergency responder's emergency medical service organization and admin-

isters the naloxone to a person who is apparently experiencing an opioid-related overdose shall not be:

(a) Subject to administrative action or criminal prosecution; or

(b) Personally liable in any civil action to respond in damages as a result of his or her acts of commission or omission arising out of and in the course of his or her rendering such care or services or arising out of his or her failure to act to provide or arrange for further medical treatment or care for the person who is apparently experiencing an opioid-related overdose, unless the emergency responder caused damage or injury by his or her willful, wanton, or grossly negligent act of commission or omission. This subdivision shall not affect the liability of such emergency medical service organization for the emergency responder's acts of commission or omission.

(4) A peace officer or law enforcement employee who, acting in good faith, obtains naloxone from the peace officer's or employee's law enforcement agency and administers the naloxone to a person who is apparently experiencing an opioid-related overdose shall not be:

(a) Subject to administrative action or criminal prosecution; or

(b) Personally liable in any civil action to respond in damages as a result of his or her acts of commission or omission arising out of and in the course of his or her rendering such care or services or arising out of his or her failure to act to provide or arrange for further medical treatment or care for the person who is apparently experiencing an opioid-related overdose, unless the peace officer or employee caused damage or injury by his or her willful, wanton, or grossly negligent act of commission or omission. This subdivision shall not affect the liability of such law enforcement agency for the peace officer's or employee's acts of commission or omission.

(5) For purposes of this section:

(a) Administer has the same meaning as in section 38-2806;

(b) Dispense has the same meaning as in section 38-2817;

(c) Emergency responder means an emergency medical responder, an emergency medical technician, an advanced emergency medical technician, or a paramedic licensed under the Emergency Medical Services Practice Act or practicing pursuant to the EMS Personnel Licensure Interstate Compact;

(d) Health professional means a physician, physician assistant, nurse practitioner, or pharmacist licensed under the Uniform Credentialing Act;

(e) Law enforcement agency means a police department, a town marshal, the office of sheriff, or the Nebraska State Patrol;

(f) Law enforcement employee means an employee of a law enforcement agency, a contractor of a law enforcement agency, or an employee of such contractor who regularly, as part of his or her duties, handles, processes, or is likely to come into contact with any evidence or property which may include or contain opioids;

(g) Naloxone means naloxone hydrochloride; and

(h) Peace officer has the same meaning as in section 49-801.

Source: Laws 2015, LB390, § 11; Laws 2017, LB487, § 9; Laws 2018, LB923, § 1; Laws 2018, LB1034, § 2; Laws 2023, LB50, § 5.
Effective date September 2, 2023.

Cross References

Emergency Medical Services Practice Act, see section 38-1201.
 EMS Personnel Licensure Interstate Compact, see section 38-3801.
 Uniform Credentialing Act, see section 38-101.

ARTICLE 5
OFFENSES AGAINST PROPERTY

Section

28-518. Grading of theft offenses; aggregation allowed; when.

28-518 Grading of theft offenses; aggregation allowed; when.

(1) Theft constitutes a Class IIA felony when the value of the thing involved is five thousand dollars or more.

(2) Theft constitutes a Class IV felony when the value of the thing involved is one thousand five hundred dollars or more but less than five thousand dollars.

(3) Theft constitutes a Class I misdemeanor when the value of the thing involved is more than five hundred dollars but less than one thousand five hundred dollars.

(4) Theft constitutes a Class II misdemeanor when the value of the thing involved is five hundred dollars or less.

(5) For any second or subsequent conviction under subsection (3) of this section, any person so offending shall be guilty of a Class IV felony.

(6) For any second conviction under subsection (4) of this section, any person so offending shall be guilty of a Class I misdemeanor, and for any third or subsequent conviction under subsection (4) of this section, the person so offending shall be guilty of a Class IV felony.

(7) For a prior conviction to be used to enhance the penalty under subsection (5) or (6) of this section, the prior conviction must have occurred no more than ten years prior to the date of commission of the current offense.

(8) Amounts taken pursuant to one scheme or course of conduct from one or more persons may be aggregated in the indictment or information in determining the classification of the offense, except that amounts may not be aggregated into more than one offense.

(9) In any prosecution for theft under sections 28-509 to 28-518, value shall be an essential element of the offense that must be proved beyond a reasonable doubt.

Source: Laws 1977, LB 38, § 117; Laws 1978, LB 748, § 7; Laws 1982, LB 347, § 8; Laws 1992, LB 111, § 2; Laws 2009, LB155, § 7; Laws 2015, LB605, § 30; Laws 2023, LB50, § 6.
 Effective date September 2, 2023.

ARTICLE 12
OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

Section

28-1201. Terms, defined; applicability.
 28-1202. Minor or prohibited person; carrying concealed weapon; penalty.
 28-1202.01. Carrying concealed handgun; locations; restrictions; posting of prohibition; violation; penalty; affirmative defense; applicability.
 28-1202.02. Carrying concealed handgun; consumption of alcohol or controlled substance; effect; applicability; violation; penalty.

Section

- 28-1202.03. Carrying concealed handgun; identification document, required; applicability; violation; penalty.
- 28-1202.04. Carrying concealed handgun; contact with peace officer or emergency services personnel; procedures for securing handgun; applicability; violation; penalty.
- 28-1205. Use of a deadly weapon to commit a felony; possession of a deadly weapon during the commission of a felony; carrying a firearm or destructive device during the commission of a dangerous misdemeanor; penalty; separate and distinct offense; proof of possession.

28-1201 Terms, defined; applicability.

For purposes of sections 28-1201 to 28-1212.04, unless the context otherwise requires:

(1) Case means (a) a hard-sided or soft-sided box, container, or receptacle intended or designed for the primary purpose of storing or transporting a firearm or (b) the firearm manufacturer's original packaging. This definition does not apply to section 28-1204.04;

(2) Concealed handgun means a handgun that is entirely obscured from view. If any part of the handgun is capable of being seen or observed by another person, it is not a concealed handgun;

(3) Firearm means any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or frame or receiver of any such weapon;

(4) Fugitive from justice means any person who has fled or is fleeing from any peace officer to avoid prosecution or incarceration for a felony;

(5) Handgun means any firearm with a barrel less than sixteen inches in length or any firearm designed to be held and fired by the use of a single hand;

(6) Juvenile means any person under the age of eighteen years;

(7) Knife means:

(a) Any dagger, dirk, knife, or stiletto with a blade over three and one-half inches in length and which, in the manner it is used or intended to be used, is capable of producing death or serious bodily injury; or

(b) Any other dangerous instrument which is capable of inflicting cutting, stabbing, or tearing wounds and which, in the manner it is used or intended to be used, is capable of producing death or serious bodily injury;

(8) Knuckles and brass or iron knuckles means any instrument that consists of finger rings or guards made of a hard substance and that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles;

(9) Machine gun means any firearm, whatever its size and usual designation, that shoots automatically more than one shot, without manual reloading, by a single function of the trigger;

(10)(a) Minor means a person who is under twenty-one years of age.

(b) Minor does not include a person who is eighteen years of age or older if the person is (i) a member of the armed forces of the United States, active or reserve, National Guard of this state, or Reserve Officers' Training Corps or (ii) a peace officer or other duly authorized law enforcement officer;

(11)(a) Prohibited person means:

(i) A person prohibited from possessing a firearm or ammunition by state law, including, but not limited to, section 28-1206; or

(ii) A person prohibited from possessing a firearm or ammunition by 18 U.S.C. 922(d) or (g), as such section existed on January 1, 2023.

(b) This definition does not apply to the use of the term prohibited person in section 28-1206;

(12) Qualified law enforcement officer and qualified retired law enforcement officer have the same meanings as in 18 U.S.C. 926B and 926C, respectively, as such sections existed on January 1, 2023;

(13) School means a public, private, denominational, or parochial elementary, vocational, or secondary school, a private postsecondary career school as defined in section 85-1603, a community college, a public or private college, a junior college, or a university;

(14) Short rifle means a rifle having a barrel less than sixteen inches long or an overall length of less than twenty-six inches; and

(15) Short shotgun means a shotgun having a barrel or barrels less than eighteen inches long or an overall length of less than twenty-six inches.

Source: Laws 1977, LB 38, § 233; Laws 1994, LB 988, § 2; Laws 2009, LB63, § 9; Laws 2009, LB430, § 6; Laws 2017, LB558, § 1; Laws 2018, LB990, § 2; Laws 2023, LB77, § 7.
Effective date September 2, 2023.

28-1202 Minor or prohibited person; carrying concealed weapon; penalty.

(1) A minor or a prohibited person shall not carry a weapon or weapons concealed on or about his or her person, such as a handgun, a knife, brass or iron knuckles, or any other deadly weapon.

(2) A violation of this section is a Class I misdemeanor for a first offense and a Class IV felony for a second or subsequent offense.

Source: Laws 1977, LB 38, § 234; Laws 1984, LB 1095, § 1; Laws 2006, LB 454, § 22; Laws 2009, LB63, § 10; Laws 2021, LB236, § 3; Laws 2023, LB77, § 8.
Effective date September 2, 2023.

28-1202.01 Carrying concealed handgun; locations; restrictions; posting of prohibition; violation; penalty; affirmative defense; applicability.

(1) Except as otherwise provided in this section, a person, other than a minor or a prohibited person, may carry a concealed handgun anywhere in Nebraska, with or without a permit under the Concealed Handgun Permit Act.

(2) Except as provided in subsection (10) of this section, a person shall not carry a concealed handgun into or onto any place or premises where the person, persons, entity, or entities in control of the place or premises or employer in control of the place or premises has prohibited the carrying of concealed handguns into or onto the place or premises.

(3) Except as provided in subsection (10) of this section, a person shall not carry a concealed handgun into or onto any: Police, sheriff, or Nebraska State Patrol station or office; detention facility, prison, or jail; courtroom or building which contains a courtroom; polling place during a bona fide election; meeting of the governing body of a county, public school district, municipality, or other

political subdivision; meeting of the Legislature or a committee of the Legislature; financial institution; professional or semiprofessional athletic event; building, grounds, vehicle, or sponsored activity or athletic event of any public, private, denominational, or parochial elementary, vocational, or secondary school, a private postsecondary career school as defined in section 85-1603, a community college, or a public or private college, junior college, or university; place of worship; hospital, emergency room, or trauma center; political rally or fundraiser; establishment having a license issued under the Nebraska Liquor Control Act that derives over one-half of its total income from the sale of alcoholic liquor; place where the possession or carrying of a firearm is prohibited by state or federal law; or any other place or premises where handguns are prohibited by state law.

(4)(a) A financial institution may authorize its security personnel to carry concealed handguns in the financial institution while on duty so long as each member of the security personnel, as authorized, is not otherwise prohibited by state law from possessing or carrying a concealed handgun and is in compliance with sections 28-1202.02 to 28-1202.04.

(b) A place of worship may authorize its security personnel to carry concealed handguns on its property if:

(i) Each member of the security personnel, as authorized, is not otherwise prohibited by state law from possessing or carrying a concealed handgun and is in compliance with sections 28-1202.02 to 28-1202.04;

(ii) Written notice is given to the congregation; and

(iii) For leased property, the carrying of concealed handguns on the property does not violate the terms of any real property lease agreement between the place of worship and the lessor.

(5) If a person, persons, entity, or entities in control of the place or premises or an employer in control of the place or premises prohibits the carrying of concealed handguns into or onto the place or premises and such place or premises are open to the public, a person does not violate this section unless the person, persons, entity, or entities in control of the place or premises or employer in control of the place or premises has posted conspicuous notice that carrying a concealed handgun is prohibited in or on the place or premises or has made a request, directly or through an authorized representative or management personnel, that the person remove the concealed handgun from the place or premises.

(6) A person carrying a concealed handgun in a vehicle or on his or her person while riding in or on a vehicle into or onto any parking area, which is open to the public, used by any location listed in subsection (2) or (3) of this section, does not violate this section if, prior to exiting the vehicle, the handgun is locked inside the glove box, trunk, or other compartment of the vehicle, a storage box securely attached to the vehicle, or, if the vehicle is a motorcycle, other than an auticycle, a hardened compartment securely attached to the motorcycle. This subsection does not apply to any parking area used by such location when the carrying of a concealed handgun into or onto such parking area is prohibited by federal law.

(7) An employer may prohibit employees or other persons from carrying concealed handguns in vehicles owned by the employer.

(8) A violation of this section is a Class III misdemeanor for a first offense and a Class I misdemeanor for any second or subsequent offense.

(9)(a) Except as provided in subdivision (9)(b) of this section, it is an affirmative defense to a violation of subsection (3) of this section that the defendant was engaged in any lawful business, calling, or employment at the time the defendant was carrying a concealed handgun and the circumstances in which the defendant was placed at the time were such as to justify a prudent person in carrying a concealed handgun for the defense of his or her person, property, or family.

(b) The affirmative defense provided for in this subsection:

(i) Does not prevent a prosecution for a violation of section 28-1204.04; and

(ii) Is not available if the defendant refuses to remove the concealed handgun from the place or premises after a person in control of the place or premises has made a request, directly or through an authorized representative or management personnel, that the defendant remove the concealed handgun from the place or premises.

(10) Subsections (2) and (3) of this section do not apply to a qualified law enforcement officer or qualified retired law enforcement officer carrying a concealed handgun pursuant to 18 U.S.C. 926B or 926C, respectively, as such sections existed on January 1, 2023.

Source: Laws 2006, LB 454, § 15; Laws 2007, LB97, § 1; Laws 2009, LB430, § 12; Laws 2018, LB909, § 120; R.S.1943, (2018), § 69-2441; Laws 2023, LB77, § 9.
Effective date September 2, 2023.

Cross References

Concealed Handgun Permit Act, see section 69-2427
Nebraska Liquor Control Act, see section 53-101.

28-1202.02 Carrying concealed handgun; consumption of alcohol or controlled substance; effect; applicability; violation; penalty.

(1) Except as provided in subsections (2), (3), and (4) of this section, a person not otherwise prohibited by state law from possessing or carrying a concealed handgun shall not carry a concealed handgun while such person:

(a) Is consuming alcohol; or

(b) Has remaining in such person's blood, urine, or breath any previously consumed alcohol or any controlled substance as defined in section 28-401.

(2) A person does not violate this section if the controlled substance in such person's blood, urine, or breath was lawfully obtained and was taken in therapeutically prescribed amounts.

(3) A person does not violate this section if:

(a) Such person is storing or transporting a handgun in a motor vehicle for any lawful purpose or transporting a handgun directly to or from a motor vehicle to or from any place where such handgun may be lawfully possessed or carried by such person; and

(b) Such handgun is unloaded, kept separate from ammunition, and enclosed in a case.

(4) This section does not apply to a qualified law enforcement officer or qualified retired law enforcement officer carrying a concealed handgun pursu-

ant to 18 U.S.C. 926B or 926C, respectively, as such sections existed on January 1, 2023.

(5) A violation of this section is a Class III misdemeanor for a first offense and a Class I misdemeanor for any second or subsequent offense.

Source: Laws 2023, LB77, § 10.

Effective date September 2, 2023.

28-1202.03 Carrying concealed handgun; identification document, required; applicability; violation; penalty.

(1)(a) This section applies to a person who is not otherwise prohibited by state law from possessing or carrying a concealed handgun.

(b) This section does not apply to a qualified law enforcement officer or qualified retired law enforcement officer carrying a concealed handgun pursuant to 18 U.S.C. 926B or 926C, respectively, as such sections existed on January 1, 2023.

(2) Except as provided in subsection (3) of this section, any time a person is carrying a concealed handgun, such person shall also carry such person's identification document. The person shall display the identification document when asked to do so by a peace officer or by emergency services personnel.

(3) A person is not required to comply with this section if:

(a) Such person is storing or transporting a handgun in a motor vehicle for any lawful purpose or transporting a handgun directly to or from a motor vehicle to or from any place where such handgun may be lawfully possessed or carried by such person; and

(b) Such handgun is unloaded, kept separate from ammunition, and enclosed in a case.

(4) For purposes of this section:

(a) Emergency services personnel means a volunteer or paid firefighter or rescue squad member or a person licensed to provide emergency medical services pursuant to the Emergency Medical Services Practice Act or authorized to provide emergency medical services pursuant to the EMS Personnel Licensure Interstate Compact; and

(b) Identification document means a valid:

(i) Driver's or operator's license;

(ii) State identification card;

(iii) Military identification card;

(iv) Alien registration card; or

(v) Passport.

(5) A violation of this section is a Class III misdemeanor for a first offense and a Class I misdemeanor for any second or subsequent offense.

Source: Laws 2023, LB77, § 11.

Effective date September 2, 2023.

Cross References

Emergency Medical Services Practice Act, see section 38-1201.

EMS Personnel Licensure Interstate Compact, see section 38-3801.

28-1202.04 Carrying concealed handgun; contact with peace officer or emergency services personnel; procedures for securing handgun; applicability; violation; penalty.

(1)(a) This section applies to a person who is not otherwise prohibited by state law from possessing or carrying a concealed handgun.

(b) This section does not apply to a qualified law enforcement officer or qualified retired law enforcement officer carrying a concealed handgun pursuant to 18 U.S.C. 926B or 926C, respectively, as such sections existed on January 1, 2023.

(2) Except as provided in subsection (5) of this section, whenever a person who is carrying a concealed handgun is contacted by a peace officer or by emergency services personnel, the person shall immediately inform the peace officer or emergency services personnel that the person is carrying a concealed handgun.

(3) Except as provided in subsection (5) of this section, during contact with a person carrying a concealed handgun, a peace officer or emergency services personnel may secure the handgun or direct that it be secured during the duration of the contact if the peace officer or emergency services personnel determines that it is necessary for the safety of any person present, including the peace officer or emergency services personnel. The person shall submit to the order to secure the handgun.

(4)(a) When the peace officer has determined that the person is not a threat to the safety of any person present, including the peace officer, and the person has not committed any other violation that would result in his or her arrest, the peace officer shall return the handgun to the person before releasing the person from the scene and breaking contact.

(b) When emergency services personnel have determined that the person is not a threat to the safety of any person present, including emergency services personnel, and if the person is physically and mentally capable of possessing the handgun, the emergency services personnel shall return the handgun to the person before releasing the person from the scene and breaking contact. If the person is transported for treatment to another location, the handgun shall be turned over to any peace officer. The peace officer shall provide a receipt which includes the make, model, caliber, and serial number of the handgun.

(5) A person is not required to comply with subsections (2) and (3) of this section if:

(a) Such person is storing or transporting a handgun in a motor vehicle for any lawful purpose or transporting a handgun directly to or from a motor vehicle to or from any place where such handgun may be lawfully possessed or carried by such person; and

(b) Such handgun is unloaded, kept separate from ammunition, and enclosed in a case.

(6) For purposes of this section:

(a) Contact with a peace officer means any time a peace officer personally stops, detains, questions, or addresses a person for an official purpose or in the course of his or her official duties, and contact with emergency services personnel means any time emergency services personnel provide treatment to a person in the course of their official duties; and

(b) Emergency services personnel has the same meaning as in section 28-1202.03.

(7) A violation of:

(a) Subsection (2) of this section is a Class III misdemeanor for a first offense, a Class I misdemeanor for a second offense, and a Class IV felony for a third or subsequent offense; and

(b) Subsection (3) of this section is a Class I misdemeanor.

Source: Laws 2006, LB 454, § 14; R.S.1943, (2018), § 69-2440; Laws 2023, LB77, § 12.

Effective date September 2, 2023.

28-1205 Use of a deadly weapon to commit a felony; possession of a deadly weapon during the commission of a felony; carrying a firearm or destructive device during the commission of a dangerous misdemeanor; penalty; separate and distinct offense; proof of possession.

(1)(a) Any person who uses a firearm, a knife, brass or iron knuckles, or any other deadly weapon to commit any felony which may be prosecuted in a court of this state commits the offense of use of a deadly weapon to commit a felony.

(b) Use of a deadly weapon, other than a firearm, to commit a felony is a Class II felony.

(c) Use of a deadly weapon, which is a firearm, to commit a felony is a Class IC felony.

(2)(a) Any person who possesses a firearm, a knife, brass or iron knuckles, or a destructive device during the commission of any felony which may be prosecuted in a court of this state commits the offense of possession of a deadly weapon during the commission of a felony.

(b) Possession of a deadly weapon, other than a firearm, during the commission of a felony is a Class III felony.

(c) Possession of a deadly weapon, which is a firearm, during the commission of a felony is a Class II felony.

(3)(a) Any person who carries a firearm or a destructive device during the commission of a dangerous misdemeanor commits the offense of carrying a firearm or destructive device during the commission of a dangerous misdemeanor.

(b) A violation of this subsection is a:

(i) Class I misdemeanor for a first or second offense; and

(ii) A Class IV felony for any third or subsequent offense.

(4) A violation of this section shall be treated as a separate and distinct offense from the underlying crimes being committed, and a sentence imposed under this section shall be consecutive to any other sentence imposed.

(5) Possession of a deadly weapon may be proved through evidence demonstrating either actual or constructive possession of a firearm, a knife, brass or iron knuckles, or a destructive device during, immediately prior to, or immediately after the commission of a felony.

(6) For purposes of this section:

(a) Dangerous misdemeanor means a misdemeanor violation of any of the following offenses:

- (i) Stalking under section 28-311.03;
 - (ii) Knowing violation of a harassment protection order under section 28-311.09;
 - (iii) Knowing violation of a sexual assault protection order under section 28-311.11;
 - (iv) Domestic assault under section 28-323;
 - (v) Assault of an unborn child in the third degree under section 28-399;
 - (vi) Theft by shoplifting under section 28-511.01;
 - (vii) Unauthorized use of a propelled vehicle under section 28-516;
 - (viii) Criminal mischief under section 28-519 if such violation arises from an incident involving the commission of a misdemeanor crime of domestic violence;
 - (ix) Impersonating a police officer under section 28-610;
 - (x) Resisting arrest under section 28-904;
 - (xi) Operating a motor vehicle or vessel to avoid arrest under section 28-905;
 - (xii) Obstructing a peace officer under section 28-906;
 - (xiii) Knowing violation of a domestic abuse protection order under section 42-924; or
 - (xiv) Any attempt under section 28-201 to commit an offense described in subdivisions (6)(a)(i) through (xiii) of this section;
- (b) Destructive device has the same meaning as in section 28-1213;
- (c) Misdemeanor crime of domestic violence has the same meaning as in section 28-1206; and
- (d) Use of a deadly weapon includes the discharge, employment, or visible display of any part of a firearm, a knife, brass or iron knuckles, any other deadly weapon, or a destructive device during, immediately prior to, or immediately after the commission of a felony or communication to another indicating the presence of a firearm, a knife, brass or iron knuckles, any other deadly weapon, or a destructive device during, immediately prior to, or immediately after the commission of a felony, regardless of whether such firearm, knife, brass or iron knuckles, deadly weapon, or destructive device was discharged, actively employed, or displayed.

Source: Laws 1977, LB 38, § 237; Laws 1995, LB 371, § 8; Laws 2009, LB63, § 14; Laws 2023, LB77, § 13.
Effective date September 2, 2023.

ARTICLE 13

MISCELLANEOUS OFFENSES

(r) UNLAWFUL MEMBERSHIP RECRUITMENT

Section
28-1351. Unlawful membership recruitment into an organization or association;
penalty.

(s) PUBLIC PROTECTION ACT

28-1354. Terms, defined.

(r) UNLAWFUL MEMBERSHIP RECRUITMENT

28-1351 Unlawful membership recruitment into an organization or association; penalty.

(1) A person commits the offense of unlawful membership recruitment into an organization or association when he or she knowingly and intentionally coerces, intimidates, threatens, or inflicts bodily harm upon another person in order to entice that other person to join or prevent that other person from leaving any organization, group, enterprise, or association whose members, individually or collectively, engage in or have engaged in any of the following criminal acts for the benefit of, at the direction of, or on behalf of the organization, group, enterprise, or association or any of its members:

- (a) Robbery under section 28-324;
- (b) Arson in the first, second, or third degree under section 28-502, 28-503, or 28-504, respectively;
- (c) Burglary under section 28-507;
- (d) Murder in the first degree, murder in the second degree, or manslaughter under section 28-303, 28-304, or 28-305, respectively;
- (e) Violations of the Uniform Controlled Substances Act that involve possession with intent to deliver, distribution, delivery, or manufacture of a controlled substance;
- (f) Unlawful use, possession, or discharge of a firearm or other deadly weapon under sections 28-1201 to 28-1212.04;
- (g) Assault in the first degree or assault in the second degree under section 28-308 or 28-309, respectively;
- (h) 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, second, or third degree under section 28-929, 28-930, or 28-931, respectively, or 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 under section 28-931.01;
- (i) Theft by unlawful taking or disposition under section 28-511;
- (j) Theft by receiving stolen property under section 28-517;
- (k) Theft by deception under section 28-512;
- (l) Theft by extortion under section 28-513;
- (m) Kidnapping under section 28-313;
- (n) Any forgery offense under sections 28-602 to 28-605;
- (o) Criminal impersonation under section 28-638;
- (p) Tampering with a publicly exhibited contest under section 28-614;
- (q) Unauthorized use of a financial transaction device or criminal possession of a financial transaction device under section 28-620 or 28-621, respectively;
- (r) Pandering under section 28-802;
- (s) Bribery, bribery of a witness, or bribery of a juror under section 28-917, 28-918, or 28-920, respectively;
- (t) Tampering with a witness or an informant or jury tampering under section 28-919;

- (u) Unauthorized application of graffiti under section 28-524;
 - (v) Dogfighting, cockfighting, bearbaiting, or pitting an animal against another under section 28-1005; or
 - (w) Promoting gambling in the first degree under section 28-1102.
- (2) Unlawful membership recruitment into an organization or association is a Class IV felony.

Source: Laws 2009, LB63, § 21; Laws 2014, LB811, § 23; Laws 2018, LB990, § 4; Laws 2023, LB77, § 14.
Effective date September 2, 2023.

Cross References

Uniform Controlled Substances Act, see section 28-401.01.

(s) PUBLIC PROTECTION ACT

28-1354 Terms, defined.

For purposes of the Public Protection Act:

(1) Enterprise means any individual, sole proprietorship, partnership, corporation, trust, association, or any legal entity, union, or group of individuals associated in fact although not a legal entity, and shall include illicit as well as licit enterprises as well as other entities;

(2) Pattern of racketeering activity means a cumulative loss for one or more victims or gains for the enterprise of not less than one thousand five hundred dollars resulting from at least two acts of racketeering activity, one of which occurred after August 30, 2009, and the last of which occurred within ten years, excluding any period of imprisonment, after the commission of a prior act of racketeering activity;

(3) Until January 1, 2017, person means any individual or entity, as defined in section 21-214, holding or capable of holding a legal, equitable, or beneficial interest in property. Beginning January 1, 2017, person means any individual or entity, as defined in section 21-214, holding or capable of holding a legal, equitable, or beneficial interest in property;

(4) Prosecutor includes the Attorney General of the State of Nebraska, the deputy attorney general, assistant attorneys general, a county attorney, a deputy county attorney, or any person so designated by the Attorney General, a county attorney, or a court of the state to carry out the powers conferred by the act;

(5) Racketeering activity includes the commission of, criminal attempt to commit, conspiracy to commit, aiding and abetting in the commission of, aiding in the consummation of, acting as an accessory to the commission of, or the solicitation, coercion, or intimidation of another to commit or aid in the commission of any of the following:

(a) Offenses against the person which include: Murder in the first degree under section 28-303; murder in the second degree under section 28-304; manslaughter under section 28-305; assault in the first degree under section 28-308; assault in the second degree under section 28-309; assault in the third degree under section 28-310; terroristic threats under section 28-311.01; kidnapping under section 28-313; false imprisonment in the first degree under section 28-314; false imprisonment in the second degree under section 28-315;

sexual assault in the first degree under section 28-319; and robbery under section 28-324;

(b) Offenses relating to controlled substances which include: To unlawfully manufacture, distribute, deliver, dispense, or possess with intent to manufacture, distribute, deliver, or dispense a controlled substance under subsection (1) of section 28-416; possession of marijuana weighing more than one pound under subsection (12) of section 28-416; possession of money used or intended to be used to facilitate a violation of subsection (1) of section 28-416 prohibited under subsection (17) of section 28-416; any violation of section 28-418; to unlawfully manufacture, distribute, deliver, or possess with intent to distribute or deliver an imitation controlled substance under section 28-445; possession of anhydrous ammonia with the intent to manufacture methamphetamine under section 28-451; and possession of ephedrine, pseudoephedrine, or phenylpropanolamine with the intent to manufacture methamphetamine under section 28-452;

(c) Offenses against property which include: Arson in the first degree under section 28-502; arson in the second degree under section 28-503; arson in the third degree under section 28-504; burglary under section 28-507; theft by unlawful taking or disposition under section 28-511; theft by shoplifting under section 28-511.01; theft by deception under section 28-512; theft by extortion under section 28-513; theft of services under section 28-515; theft by receiving stolen property under section 28-517; criminal mischief under section 28-519; and unlawfully depriving or obtaining property or services using a computer under section 28-1344;

(d) Offenses involving fraud which include: Burning to defraud an insurer under section 28-505; forgery in the first degree under section 28-602; forgery in the second degree under section 28-603; criminal possession of a forged instrument under section 28-604; criminal possession of written instrument forgery devices under section 28-605; criminal impersonation under section 28-638; identity theft under section 28-639; identity fraud under section 28-640; false statement or book entry under section 28-612; tampering with a publicly exhibited contest under section 28-614; issuing a false financial statement for purposes of obtaining a financial transaction device under section 28-619; unauthorized use of a financial transaction device under section 28-620; criminal possession of a financial transaction device under section 28-621; unlawful circulation of a financial transaction device in the first degree under section 28-622; unlawful circulation of a financial transaction device in the second degree under section 28-623; criminal possession of a blank financial transaction device under section 28-624; criminal sale of a blank financial transaction device under section 28-625; criminal possession of a financial transaction forgery device under section 28-626; unlawful manufacture of a financial transaction device under section 28-627; laundering of sales forms under section 28-628; unlawful acquisition of sales form processing services under section 28-629; unlawful factoring of a financial transaction device under section 28-630; and fraudulent insurance acts under section 28-631;

(e) Offenses involving governmental operations which include: Abuse of public records under section 28-911; perjury or subornation of perjury under section 28-915; bribery under section 28-917; bribery of a witness under section 28-918; tampering with a witness or informant or jury tampering under section 28-919; bribery of a juror under section 28-920; 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 under section 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 second degree under section 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 third degree under section 28-931; and 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 under section 28-931.01;

(f) Offenses involving gambling which include: Promoting gambling in the first degree under section 28-1102; possession of gambling records under section 28-1105; gambling debt collection under section 28-1105.01; and possession of a gambling device under section 28-1107;

(g) Offenses relating to firearms, weapons, and explosives which include: Carrying a concealed weapon under section 28-1202; transportation or possession of machine guns, short rifles, or short shotguns under section 28-1203; unlawful possession of a handgun under section 28-1204; unlawful transfer of a firearm to a juvenile under section 28-1204.01; possession of a firearm by a prohibited juvenile offender under section 28-1204.05; using a deadly weapon to commit a felony, possession of a deadly weapon during the commission of a felony, or carrying a firearm or destructive device during the commission of a dangerous misdemeanor under section 28-1205; possession of a deadly weapon by a prohibited person under section 28-1206; possession of a defaced firearm under section 28-1207; defacing a firearm under section 28-1208; unlawful discharge of a firearm under section 28-1212.02; possession, receipt, retention, or disposition of a stolen firearm under section 28-1212.03; unlawful possession of explosive materials in the first degree under section 28-1215; unlawful possession of explosive materials in the second degree under section 28-1216; unlawful sale of explosives under section 28-1217; use of explosives without a permit under section 28-1218; obtaining an explosives permit through false representations under section 28-1219; possession of a destructive device under section 28-1220; threatening the use of explosives or placing a false bomb under section 28-1221; using explosives to commit a felony under section 28-1222; using explosives to damage or destroy property under section 28-1223; and using explosives to kill or injure any person under section 28-1224;

(h) Any violation of the Securities Act of Nebraska pursuant to section 8-1117;

(i) Any violation of the Nebraska Revenue Act of 1967 pursuant to section 77-2713;

(j) Offenses relating to public health and morals which include: Prostitution under section 28-801; pandering under section 28-802; keeping a place of prostitution under section 28-804; labor trafficking, sex trafficking, labor trafficking of a minor, or sex trafficking of a minor under section 28-831; a violation of section 28-1005; and any act relating to the visual depiction of sexually explicit conduct prohibited in the Child Pornography Prevention Act; and

(k) A violation of the Computer Crimes Act;

(6) State means the State of Nebraska or any political subdivision or any department, agency, or instrumentality thereof; and

(7) Unlawful debt means a debt of at least one thousand five hundred dollars:

(a) Incurred or contracted in gambling activity which was in violation of federal law or the law of the state or which is unenforceable under state or federal law in whole or in part as to principal or interest because of the laws relating to usury; or

(b) Which was incurred in connection with the business of gambling in violation of federal law or the law of the state or the business of lending money or a thing of value at a rate usurious under state law if the usurious rate is at least twice the enforceable rate.

Source: Laws 2009, LB155, § 4; Laws 2010, LB771, § 13; Laws 2013, LB255, § 8; Laws 2014, LB749, § 277; Laws 2014, LB811, § 24; Laws 2016, LB1094, § 10; Laws 2018, LB990, § 5; Laws 2023, LB77, § 15.

Effective date September 2, 2023.

Cross References

Child Pornography Prevention Act, see section 28-1463.01.

Computer Crimes Act, see section 28-1341.

Nebraska Revenue Act of 1967, see section 77-2701.

Securities Act of Nebraska, see section 8-1123.

CHAPTER 29 CRIMINAL PROCEDURE

Article.

- 4. Warrant and Arrest of Accused. 29-431.
- 22. Judgment on Conviction.
 - (b) Habitual Criminals. 29-2221.
 - (c) Probation. 29-2244 to 29-2269.
 - (e) Restitution. 29-2281.
- 23. Review of Judgments in Criminal Cases. 29-2315.02, 29-2318.
- 30. Postconviction Proceedings. 29-3001.
- 43. Sexual Assault, Domestic Violence, and Sex Trafficking.
 - (f) Debt for Medical Services. 29-4317.

ARTICLE 4

WARRANT AND ARREST OF ACCUSED

Section

29-431. Infraction, defined.

29-431 Infraction, defined.

As used in sections 28-416, 29-422, 29-424, 29-425, 29-431 to 29-434, 48-1231, and 53-173, unless the context otherwise requires, infraction means the violation of any law, ordinance, order, rule, or regulation, not including those related to traffic, which is not otherwise declared to be a misdemeanor or a felony. Infraction includes violations of section 60-6,267 and beginning January 1, 2024, section 60-6,279.

Source: Laws 1978, LB 808, § 1; Laws 1979, LB 534, § 1; Laws 1983, LB 306, § 1; Laws 1993, LB 370, § 14; Laws 2010, LB884, § 1; Laws 2015, LB330, § 1; Laws 2023, LB138, § 3.

Operative date September 2, 2023.

Cross References

Child passenger restraint system, violation, see sections 60-6,267, 60-6,268, and 71-1907.

ARTICLE 22

JUDGMENT ON CONVICTION

(b) HABITUAL CRIMINALS

Section

29-2221. Habitual criminal, defined; procedure for determination; hearing; penalties; effect of pardon.

(c) PROBATION

29-2244. Assistant probation officers; pilot program; purpose; report.

29-2245. Probationer incentive program; pilot program; report.

29-2252. Probation administrator; duties.

29-2261. Presentence investigation, when; contents; psychiatric examination; persons having access to records; reports authorized.

29-2262. Probation; conditions; court order; information accessible through criminal justice information system.

Section

- 29-2263. Probation; term; court; duties; powers; post-release supervision; term; probation obligation satisfied, when; probation officer; duties; probationer outside of jurisdiction without permission; effect.
- 29-2269. Act, how cited.

(e) RESTITUTION

- 29-2281. Restitution; determination of amount; fines and costs; manner and priority of payment.

(b) HABITUAL CRIMINALS

29-2221 Habitual criminal, defined; procedure for determination; hearing; penalties; effect of pardon.

(1) Whoever has been twice convicted of a crime, sentenced, and committed to prison, in this or any other state or by the United States or once in this state and once at least in any other state or by the United States, for terms of not less than one year each shall, upon conviction of a felony committed in this state, be deemed to be a habitual criminal and shall be punished by imprisonment in a Department of Correctional Services adult correctional facility for a mandatory minimum term of ten years and a maximum term of not more than sixty years, except that:

(a) If the felony committed is in violation of section 28-303, 28-304, 28-308, 28-313, 28-319, 28-319.01, 28-502, 28-929, or 28-1222, and at least one of the habitual criminal's prior felony convictions was for a violation of one of the sections listed in this subdivision or of a similar statute in another state or of the United States, the mandatory minimum term shall be twenty-five years and the maximum term not more than sixty years;

(b) If the felony committed is in violation of subsection (3) of section 28-306 and at least one of the prior convictions is in violation of subsection (3) of section 28-306 and the other is in violation of one of the sections set forth in subdivision (a) of this subsection or if the felony committed is in violation of one of the sections set forth in subdivision (a) of this subsection and both of the prior convictions are in violation of subsection (3) of section 28-306, the mandatory minimum term shall be twenty-five years and the maximum term not more than sixty years;

(c) If the felony committed and at least one of the prior felony convictions do not involve sexual contact, sexual penetration, the threat to inflict serious bodily injury or death on another person, the infliction of serious bodily injury on another person, a deadly or dangerous weapon, or a firearm, the mandatory minimum term shall be three years and the maximum term not more than the maximum term for the felony committed or twenty years, whichever is greater. For this subdivision (1)(c) to apply, no prior felony conviction may be a violation described in subdivision (1)(a) of this section; and

(d) If a greater punishment is otherwise provided by statute, the law creating the greater punishment shall govern.

(2) When punishment of an accused as a habitual criminal is sought, the facts with reference thereto shall be charged in the indictment or information which contains the charge of the felony upon which the accused is prosecuted, but the fact that the accused is charged with being a habitual criminal shall not be an issue upon the trial of the felony charge and shall not in any manner be disclosed to the jury. If the accused is convicted of a felony, before sentence is

imposed a hearing shall be had before the court alone as to whether such person has been previously convicted of prior felonies. The court shall fix a time for the hearing and notice thereof shall be given to the accused at least three days prior thereto. At the hearing, if the court finds from the evidence submitted that the accused has been convicted two or more times of felonies and sentences imposed therefor by the courts of this or any other state or by the United States, the court shall sentence such person so convicted as a habitual criminal.

(3) If the person so convicted shows to the satisfaction of the court before which the conviction was had that he or she was released from imprisonment upon either of such sentences upon a pardon granted for the reason that he or she was innocent, such conviction and sentence shall not be considered as such under this section and section 29-2222.

Source: Laws 1921, c. 131, § 1, p. 543; C.S.1922, § 10177; C.S.1929, § 29-2217; Laws 1937, c. 68, § 1, p. 252; C.S.Supp.,1941, § 29-2217; R.S.1943, § 29-2221; Laws 1947, c. 105, § 1, p. 294; Laws 1967, c. 179, § 1, p. 497; Laws 1993, LB 31, § 10; Laws 1995, LB 371, § 13; Laws 2006, LB 1199, § 14; Laws 2023, LB50, § 7.

Effective date September 2, 2023.

(c) PROBATION

29-2244 Assistant probation officers; pilot program; purpose; report.

(1) The probation administrator shall create a pilot program to hire additional assistant probation officers as provided in this section.

(2) The pilot program shall be limited to a single probation district.

(3) Assistant probation officers hired under this section shall assist probation officers in the supervision of high-risk caseloads.

(4) The purpose of the pilot program is to determine whether additional support for probation officers results in probationers completing their terms of probation with fewer violations.

(5) On or before June 1, 2024, the probation administrator shall electronically submit a report to the Judiciary Committee of the Legislature regarding the pilot program. The report shall include the total number of persons admitted into the pilot program, including demographic information, criminal history, and top needs according to the results of a risk assessment; conditions of supervision; the total number of violations of supervision conditions; the number of supervision discharges by type of discharge; and recidivism rates.

Source: Laws 2023, LB50, § 13.

Effective date September 2, 2023.

29-2245 Probationer incentive program; pilot program; report.

(1) The probation administrator shall create a pilot program to establish a probationer incentive program as provided in this section.

(2) The pilot program shall be limited to a single probation district. Such district shall be chosen by the State Court Administrator.

(3) The pilot program shall establish an incentive fund to be used for the purchase of gift cards, vouchers, and other tangible rewards for probationers

who are succeeding at probation, in order to encourage continued success and reduce recidivism. The incentives shall be awarded at the discretion of probation officers, subject to policies and guidelines of the office.

(4) On or before June 1, 2024, the probation administrator shall electronically submit a report to the Judiciary Committee of the Legislature regarding the pilot program.

Source: Laws 2023, LB50, § 14.

Effective date September 2, 2023.

29-2252 Probation administrator; duties.

The administrator shall:

- (1) Supervise and administer the office;
- (2) Establish and maintain policies, standards, and procedures for the system, with the concurrence of the Supreme Court;
- (3) Prescribe and furnish such forms for records and reports for the system as shall be deemed necessary for uniformity, efficiency, and statistical accuracy;
- (4) Establish minimum qualifications for employment as a probation officer in this state and establish and maintain such additional qualifications as he or she deems appropriate for appointment to the system. Qualifications for probation officers shall be established in accordance with subsection (4) of section 29-2253. An ex-offender released from a penal complex or a county jail may be appointed to a position of deputy probation or parole officer. Such ex-offender shall maintain a record free of arrests, except for minor traffic violations, for one year immediately preceding his or her appointment;
- (5) Establish and maintain advanced periodic inservice training requirements for the system;
- (6) Cooperate with all agencies, public or private, which are concerned with treatment or welfare of persons on probation. All information provided to the Nebraska Commission on Law Enforcement and Criminal Justice for the purpose of providing access to such information to law enforcement agencies through the state's criminal justice information system shall be provided in a manner that allows such information to be readily accessible through the main interface of the system;
- (7) Organize and conduct training programs for probation officers. Training shall include the proper use of a risk and needs assessment, risk-based supervision strategies, relationship skills, cognitive behavioral interventions, community-based resources, criminal risk factors, and targeting criminal risk factors to reduce recidivism and the proper use of a matrix of administrative sanctions, custodial sanctions, and rewards developed pursuant to subdivision (18) of this section. All probation officers employed on or after August 30, 2015, shall complete the training requirements set forth in this subdivision;
- (8) Collect, develop, and maintain statistical information concerning probationers, probation practices, and the operation of the system and provide the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice with the information needed to compile the report required in section 47-624;
- (9) Interpret the probation program to the public with a view toward developing a broad base of public support;

(10) Conduct research for the purpose of evaluating and improving the effectiveness of the system. Subject to the availability of funding, the administrator shall contract with an independent contractor or academic institution for evaluation of existing community corrections facilities and programs operated by the office;

(11) Adopt and promulgate such rules and regulations as may be necessary or proper for the operation of the office or system. The administrator shall adopt and promulgate rules and regulations for transitioning individuals on probation across levels of supervision and discharging them from supervision consistent with evidence-based practices. The rules and regulations shall ensure supervision resources are prioritized for individuals who are high risk to reoffend, require transitioning individuals down levels of supervision intensity based on assessed risk and months of supervision without a reported major violation, and establish incentives for earning discharge from supervision based on compliance;

(12) Transmit a report during each even-numbered year to the Supreme Court on the operation of the office for the preceding two calendar years which shall include a historical analysis of probation officer workload, including participation in non-probation-based programs and services. The report shall be transmitted by the Supreme Court to the Governor and the Clerk of the Legislature. The report submitted to the Clerk of the Legislature shall be submitted electronically;

(13) Administer the payment by the state of all salaries, travel, and expenses authorized under section 29-2259 incident to the conduct and maintenance of the office;

(14) Use the funds provided under section 29-2262.07 to augment operational or personnel costs associated with the development, implementation, and evaluation of enhanced probation-based programs and non-probation-based programs and services in which probation personnel or probation resources are utilized pursuant to an interlocal agreement authorized by subdivision (16) of this section and to purchase services to provide such programs aimed at enhancing adult probationer or non-probation-based program participant supervision in the community and treatment needs of probationers and non-probation-based program participants. Enhanced probation-based programs include, but are not limited to, specialized units of supervision, related equipment purchases and training, and programs that address a probationer's vocational, educational, mental health, behavioral, or substance abuse treatment needs;

(15) Ensure that any risk or needs assessment instrument utilized by the system be periodically validated;

(16) Have the authority to enter into interlocal agreements in which probation resources or probation personnel may be utilized in conjunction with or as part of non-probation-based programs and services. Any such interlocal agreement shall comply with section 29-2255;

(17) Collaborate with the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice and the Division of Parole Supervision to develop rules governing the participation of parolees in community corrections programs operated by the Office of Probation Administration;

(18) Develop a matrix of rewards for compliance and positive behaviors and graduated administrative sanctions and custodial sanctions for use in responding to and deterring substance abuse violations and technical violations. As applicable under sections 29-2266.02 and 29-2266.03, custodial sanctions of up to thirty days in jail shall be designated as the most severe response to a violation in lieu of revocation and custodial sanctions of up to three days in jail shall be designated as the second most severe response;

(19) Adopt and promulgate rules and regulations for the creation of individualized post-release supervision plans, collaboratively with the Department of Correctional Services and county jails, for probationers sentenced to post-release supervision; and

(20) Exercise all powers and perform all duties necessary and proper to carry out his or her responsibilities.

Each member of the Legislature shall receive an electronic copy of the report required by subdivision (12) of this section by making a request for it to the administrator.

Source: Laws 1971, LB 680, § 7; Laws 1973, LB 126, § 2; Laws 1978, LB 625, § 9; Laws 1979, LB 322, § 9; Laws 1979, LB 536, § 6; Laws 1981, LB 545, § 6; Laws 1984, LB 13, § 65; Laws 1986, LB 529, § 37; Laws 1990, LB 663, § 16; Laws 1992, LB 447, § 5; Laws 2003, LB 46, § 5; Laws 2005, LB 538, § 7; Laws 2011, LB390, § 1; Laws 2012, LB782, § 32; Laws 2015, LB605, § 64; Laws 2016, LB1094, § 12; Laws 2018, LB841, § 2; Laws 2020, LB381, § 22; Laws 2023, LB50, § 8.

Effective date September 2, 2023.

29-2261 Presentence investigation, when; contents; psychiatric examination; persons having access to records; reports authorized.

(1) Unless it is impractical to do so, when an offender has been convicted of a felony other than murder in the first degree, the court shall not impose sentence without first ordering a presentence investigation of the offender and according due consideration to a written report of such investigation. When an offender has been convicted of murder in the first degree and (a) a jury renders a verdict finding the existence of one or more aggravating circumstances as provided in section 29-2520 or (b)(i) the information contains a notice of aggravation as provided in section 29-1603 and (ii) the offender waives his or her right to a jury determination of the alleged aggravating circumstances, the court shall not commence the sentencing determination proceeding as provided in section 29-2521 without first ordering a presentence investigation of the offender and according due consideration to a written report of such investigation.

(2) A court may order a presentence investigation in any case, except in cases in which an offender has been convicted of a Class IIIA misdemeanor, a Class IV misdemeanor, a Class V misdemeanor, a traffic infraction, or any corresponding city or village ordinance.

(3) The presentence investigation and report shall include, when available, an analysis of the circumstances attending the commission of the crime, the offender's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, and personal habits, and any other matters that the probation officer deems relevant

or the court directs to be included. All local and state police agencies and Department of Correctional Services adult correctional facilities shall furnish to the probation officer copies of such criminal records, in any such case referred to the probation officer by the court of proper jurisdiction, as the probation officer shall require without cost to the court or the probation officer.

Such investigation shall also include:

- (a) Any written statements submitted to the county attorney by a victim; and
 - (b) Any written statements submitted to the probation officer by a victim.
- (4) If there are no written statements submitted to the probation officer, he or she shall certify to the court that:
- (a) He or she has attempted to contact the victim; and
 - (b) If he or she has contacted the victim, such officer offered to accept the written statements of the victim or to reduce such victim's oral statements to writing.

For purposes of subsections (3) and (4) of this section, the term victim shall be as defined in section 29-119.

(5) Before imposing sentence, the court may order the offender to submit to psychiatric observation and examination for a period of not exceeding sixty days or such longer period as the court determines to be necessary for that purpose. The offender may be remanded for this purpose to any available clinic or mental hospital, or the court may appoint a qualified psychiatrist to make the examination. The report of the examination shall be submitted to the court.

(6)(a) Any presentence report, substance abuse evaluation, or psychiatric examination shall be privileged and shall not be disclosed directly or indirectly to anyone other than a judge; probation officers to whom an offender's file is duly transferred; the probation administrator or his or her designee; alcohol and drug counselors, mental health practitioners, psychiatrists, and psychologists licensed or certified under the Uniform Credentialing Act to conduct substance abuse evaluations and treatment; or others entitled by law to receive such information, including personnel and mental health professionals for the Nebraska State Patrol specifically assigned to sex offender registration and community notification for the sole purpose of using such report, evaluation, or examination for assessing risk and for community notification of registered sex offenders.

(b) For purposes of this subsection, mental health professional means (i) a practicing physician licensed to practice medicine in this state under the Medicine and Surgery Practice Act, (ii) a practicing psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111 or as provided under similar provisions of the Psychology Interjurisdictional Compact, (iii) a practicing mental health professional licensed or certified in this state as provided in the Mental Health Practice Act, or (iv) a practicing professional counselor holding a privilege to practice in Nebraska under the Licensed Professional Counselors Interstate Compact.

(7) The court shall permit inspection of the presentence report, substance abuse evaluation, or psychiatric examination or parts of the report, evaluation, or examination, as determined by the court, by the prosecuting attorney and defense counsel. Such inspection shall be by electronic access only unless the court determines such access is not available to the prosecuting attorney or defense counsel. The State Court Administrator shall determine and develop the

means of electronic access to such presentence reports, evaluations, and examinations. Upon application by the prosecuting attorney or defense counsel, the court may order that addresses, telephone numbers, and other contact information for victims or witnesses named in the report, evaluation, or examination be redacted upon a showing by a preponderance of the evidence that such redaction is warranted in the interests of public safety. The court may permit inspection of the presentence report, substance abuse evaluation, or psychiatric examination or examination of parts of the report, evaluation, or examination by any other person having a proper interest therein whenever the court finds it is in the best interest of a particular offender. The court may allow fair opportunity for an offender to provide additional information for the court's consideration.

(8) If an offender is sentenced to imprisonment, a copy of the report of any presentence investigation, substance abuse evaluation, or psychiatric examination shall be transmitted immediately to the Department of Correctional Services. Upon request, the department shall provide a copy of the report to the Board of Parole, the Division of Parole Supervision, and the Board of Pardons.

(9) Notwithstanding subsections (6) and (7) of this section, the Supreme Court or an agent of the Supreme Court acting under the direction and supervision of the Chief Justice shall have access to psychiatric examinations, substance abuse evaluations, and presentence investigations and reports for research purposes. The Supreme Court and its agent shall treat such information as confidential, and nothing identifying any individual shall be released.

Source: Laws 1971, LB 680, § 16; Laws 1974, LB 723, § 1; Laws 1983, LB 78, § 4; Laws 2000, LB 1008, § 1; Laws 2002, LB 564, § 1; Laws 2002, Third Spec. Sess., LB 1, § 9; Laws 2003, LB 46, § 8; Laws 2004, LB 1207, § 17; Laws 2007, LB463, § 1129; Laws 2011, LB390, § 3; Laws 2015, LB268, § 20; Laws 2015, LB504, § 1; Referendum 2016, No. 426; Laws 2018, LB841, § 3; Laws 2018, LB1034, § 3; Laws 2022, LB752, § 4; Laws 2023, LB50, § 9.

Effective date September 2, 2023.

Cross References

Licensed Professional Counselors Interstate Compact, see section 38-4201.

Medicine and Surgery Practice Act, see section 38-2001.

Mental Health Practice Act, see section 38-2101.

Uniform Credentialing Act, see section 38-101.

29-2262 Probation; conditions; court order; information accessible through criminal justice information system.

(1) When a court sentences an offender to probation, it shall attach such reasonable conditions as it deems necessary or likely to insure that the offender will lead a law-abiding life. No offender shall be sentenced to probation if he or she is deemed to be a habitual criminal pursuant to section 29-2221.

(2) The court may, as a condition of a sentence of probation, require the offender:

(a) To refrain from unlawful conduct;

(b) To be confined periodically in the county jail or to return to custody after specified hours but not to exceed the lesser of ninety days or the maximum jail term provided by law for the offense;

- (c) To meet his or her family responsibilities;
 - (d) To devote himself or herself to a specific employment or occupation;
 - (e) To undergo medical or psychiatric treatment and to enter and remain in a specified institution for such purpose;
 - (f) To pursue a prescribed secular course of study or vocational training;
 - (g) To attend or reside in a facility established for the instruction, recreation, or residence of persons on probation;
 - (h) To refrain from frequenting unlawful or disreputable places or consorting with disreputable persons;
 - (i) To possess no firearm or other dangerous weapon if convicted of a felony, or if convicted of any other offense, to possess no firearm or other dangerous weapon unless granted written permission by the court;
 - (j) To remain within the jurisdiction of the court and to notify the court or the probation officer of any change in his or her address or his or her employment and to agree to waive extradition if found in another jurisdiction;
 - (k) To report as directed to the court or a probation officer and to permit the officer to visit his or her home;
 - (l) To pay a fine in one or more payments as ordered;
 - (m) To pay for tests to determine the presence of drugs or alcohol, psychological evaluations, offender assessment screens, and rehabilitative services required in the identification, evaluation, and treatment of offenders if such offender has the financial ability to pay for such services;
 - (n) To perform community service as outlined in sections 29-2277 to 29-2279 under the direction of his or her probation officer;
 - (o) To be monitored by an electronic surveillance device or system and to pay the cost of such device or system if the offender has the financial ability;
 - (p) To participate in a community correctional facility or program as provided in the Community Corrections Act;
 - (q) To satisfy any other conditions reasonably related to the rehabilitation of the offender;
 - (r) To make restitution as described in sections 29-2280 and 29-2281; or
 - (s) To pay for all costs imposed by the court, including court costs and the fees imposed pursuant to section 29-2262.06.
- (3) When jail time is imposed as a condition of probation under subdivision (2)(b) of this section, the court shall advise the offender on the record the time the offender will serve in jail assuming no good time for which the offender will be eligible under section 47-502 is lost and assuming none of the jail time imposed as a condition of probation is waived by the court.
- (4) Jail time may only be imposed as a condition of probation under subdivision (2)(b) of this section if:
- (a) The court would otherwise sentence the defendant to a term of imprisonment instead of probation; and
 - (b) The court makes a finding on the record that, while probation is appropriate, periodic confinement in the county jail as a condition of probation is necessary because a sentence of probation without a period of confinement would depreciate the seriousness of the offender's crime or promote disrespect for law.

(5) In all cases in which the offender is guilty of violating section 28-416, a condition of probation shall be mandatory treatment and counseling as provided by such section.

(6) In all cases in which the offender is guilty of a crime covered by the DNA Identification Information Act, a condition of probation shall be the collecting of a DNA sample pursuant to the act and the paying of all costs associated with the collection of the DNA sample prior to release from probation.

(7) For any offender sentenced to probation, the court shall enter an order to provide the offender's (a) name, (b) probation officer, and (c) conditions of probation to the Nebraska Commission on Law Enforcement and Criminal Justice which shall provide access to such information to law enforcement agencies through the state's criminal justice information system.

Source: Laws 1971, LB 680, § 17; Laws 1975, LB 289, § 1; Laws 1978, LB 623, § 29; Laws 1979, LB 292, § 1; Laws 1986, LB 504, § 2; Laws 1986, LB 528, § 4; Laws 1986, LB 956, § 14; Laws 1989, LB 592, § 3; Laws 1989, LB 669, § 1; Laws 1990, LB 220, § 8; Laws 1991, LB 742, § 2; Laws 1993, LB 627, § 2; Laws 1995, LB 371, § 15; Laws 1997, LB 882, § 1; Laws 1998, LB 218, § 16; Laws 2003, LB 46, § 9; Laws 2006, LB 385, § 1; Laws 2010, LB190, § 1; Laws 2015, LB605, § 67; Laws 2016, LB1094, § 17; Laws 2019, LB340, § 1; Laws 2023, LB50, § 10.
Effective date September 2, 2023.

Cross References

Community Corrections Act, see section 47-619.

DNA Identification Information Act, see section 29-4101.

29-2263 Probation; term; court; duties; powers; post-release supervision; term; probation obligation satisfied, when; probation officer; duties; probationer outside of jurisdiction without permission; effect.

(1)(a) Except as provided in subsection (2) of this section, when a court has sentenced an offender to probation, the court shall specify the term of such probation which shall be not more than five years upon conviction of a felony or second offense misdemeanor and two years upon conviction of a first offense misdemeanor.

(b) At sentencing, the court shall provide notice to the offender that the offender may be eligible to have the conviction set aside as provided in subsection (2) of section 29-2264 and shall provide information on how to file such a petition. The State Court Administrator shall develop standardized advisement language and any forms necessary to carry out this subdivision.

(c) The court, on application of a probation officer or of the probationer or on its own motion, may discharge a probationer at any time.

(2) When a court has sentenced an offender to post-release supervision, the court shall specify the term of such post-release supervision as provided in section 28-105. The court, on application of a probation officer or of the probationer or on its own motion, may discharge a probationer at any time.

(3) During the term of probation, the court on application of a probation officer or of the probationer, or its own motion, may modify or eliminate any of the conditions imposed on the probationer or add further conditions authorized by section 29-2262. This subsection does not preclude a probation officer from

imposing administrative sanctions with the probationer's full knowledge and consent as authorized by sections 29-2266.01 and 29-2266.02.

(4)(a) Upon completion of the term of probation, or the earlier discharge of the probationer, the probationer shall be relieved of any obligations imposed by the order of the court and shall have satisfied the sentence for his or her crime.

(b) Upon satisfactory fulfillment of the conditions of probation for the entire period or after discharge from probation prior to the termination of the period of probation, a probation officer shall notify the probationer that the probationer may be eligible to have the conviction set aside as provided in subsection (2) of section 29-2264. The notice shall include an explanation of the requirements for a conviction to be set aside, how to file a petition for a conviction to be set aside, and the effect of and limitations of having a conviction set aside and an advisement that the probationer consult with an attorney prior to filing a petition. The State Court Administrator shall develop standardized advisement language and any forms necessary to carry out this subdivision.

(5) Whenever a probationer disappears or leaves the jurisdiction of the court without permission, the time during which he or she keeps his or her whereabouts hidden or remains away from the jurisdiction of the court shall be added to the original term of probation.

Source: Laws 1971, LB 680, § 18; Laws 1975, LB 289, § 2; Laws 2003, LB 46, § 10; Laws 2015, LB605, § 68; Laws 2016, LB1094, § 18; Laws 2023, LB50, § 11.
Effective date September 2, 2023.

29-2269 Act, how cited.

Sections 29-2244 to 29-2269 shall be known and may be cited as the Nebraska Probation Administration Act.

Source: Laws 1971, LB 680, § 31; Laws 1990, LB 220, § 9; Laws 2003, LB 46, § 14; Laws 2005, LB 538, § 11; Laws 2010, LB800, § 9; Laws 2014, LB464, § 6; Laws 2016, LB1094, § 25; Laws 2023, LB50, § 12.
Effective date September 2, 2023.

(e) RESTITUTION

29-2281 Restitution; determination of amount; fines and costs; manner and priority of payment.

(1) To determine the amount of restitution, the court may hold a hearing at the time of sentencing. The amount of restitution shall be based on the actual damages sustained by the victim and shall be supported by evidence which shall become a part of the court record. The court shall consider the defendant's earning ability, employment status, financial resources, and family or other legal obligations and shall balance such considerations against the obligation to the victim. In considering the earning ability of a defendant who is sentenced to imprisonment, the court may receive evidence of money anticipated to be earned by the defendant during incarceration.

(2) A person may not be granted or denied probation or parole either solely or primarily due to his or her financial resources or ability or inability to pay restitution.

(3) The court may order that restitution be made immediately, in specified installments, or within a specified period of time not to exceed five years after the date of judgment or defendant's final release date from imprisonment, whichever is later.

(4) If, in addition to restitution, a defendant is ordered to pay fines and costs as part of the judgment and the defendant fails to pay the full amount owed, funds shall first be applied to a restitution obligation with the remainder applied towards fines and costs only when the restitution obligation is satisfied in full.

(5) Restitution payments shall be made through the clerk of the court ordering restitution. The clerk shall maintain a record of all receipts and disbursements.

Source: Laws 1986, LB 956, § 2; Laws 1992, LB 1059, § 26; Laws 2015, LB605, § 71; Laws 2023, LB50, § 15.
Effective date September 2, 2023.

ARTICLE 23

REVIEW OF JUDGMENTS IN CRIMINAL CASES

Section

- 29-2315.02. Error proceedings by county attorney; finding regarding indigency; effect on appointment of counsel for defendant; fees and expenses.
29-2318. Appeal of ruling or decision; finding regarding indigency; effect on appointment of counsel for defendant; fees and expenses.

29-2315.02 Error proceedings by county attorney; finding regarding indigency; effect on appointment of counsel for defendant; fees and expenses.

If the application is granted in cases where the court finds a defendant to be indigent, the trial court shall first contact the public defender, in counties with a public defender, to inquire whether or not the public defender is able to accept the appointment to argue the case against the prosecuting attorney. If the public defender declines the appointment because of a conflict of interest, the court shall appoint another attorney. An attorney other than the public defender appointed under this section shall file an application for fees and expenses in the court which appointed such attorney for all fees and expenses reasonably necessary to permit such attorney to effectively and competently represent the defendant and to argue the case against the prosecuting attorney. Such fees and expenses shall be paid out of the treasury of the county in the full amount determined by the court. If the court does not find a defendant indigent and does not appoint the public defender or another attorney, the defendant may be represented by an attorney of the defendant's choice.

Source: Laws 1959, c. 121, § 2, p. 454; Laws 2023, LB50, § 16.
Effective date September 2, 2023.

29-2318 Appeal of ruling or decision; finding regarding indigency; effect on appointment of counsel for defendant; fees and expenses.

When a notice is filed in cases where the court finds a defendant to be indigent, the trial court shall first contact the public defender, in counties with a public defender, to inquire whether or not the public defender is able to accept the appointment to argue the case against the prosecuting attorney. If the public defender declines the appointment because of a conflict of interest,

the court shall appoint another attorney. An attorney other than the public defender appointed under this section shall file an application for fees and expenses in the court which appointed such attorney for all fees and expenses reasonably necessary to permit such attorney to effectively and competently represent the defendant and to argue the case against the prosecuting attorney. Such fees and expenses shall be paid out of the treasury of the county in the full amount determined by the court. If the court does not find a defendant indigent and does not appoint the public defender or another attorney, the defendant may be represented by an attorney of the defendant's choice.

Source: Laws 1975, LB 130, § 2; Laws 1984, LB 13, § 71; Laws 2023, LB50, § 17.

Effective date September 2, 2023.

ARTICLE 30

POSTCONVICTION PROCEEDINGS

Section

29-3001. Postconviction relief; motion; limitation; procedure; costs.

29-3001 Postconviction relief; motion; limitation; procedure; costs.

(1) A prisoner in custody under sentence and claiming a right to be released on the ground that there was such a denial or infringement of the rights of the prisoner as to render the judgment void or voidable under the Constitution of this state or the Constitution of the United States, may file a verified motion, in the court which imposed such sentence, stating the grounds relied upon and asking the court to vacate or set aside the sentence.

(2) Unless the motion and the files and records of the case show to the satisfaction of the court that the prisoner is entitled to no relief, the court shall cause notice thereof to be served on the county attorney, grant a prompt hearing thereon, and determine the issues and make findings of fact and conclusions of law with respect thereto. If the court finds that there was such a denial or infringement of the rights of the prisoner as to render the judgment void or voidable under the Constitution of this state or the Constitution of the United States, the court shall vacate and set aside the judgment and shall discharge the prisoner or resentence the prisoner or grant a new trial as may appear appropriate. Proceedings under the provisions of sections 29-3001 to 29-3004 shall be civil in nature. Costs shall be taxed as in habeas corpus cases.

(3) A court may entertain and determine such motion without requiring the production of the prisoner, whether or not a hearing is held. Testimony of the prisoner or other witnesses may be offered by deposition. The court need not entertain a second motion or successive motions for similar relief on behalf of the same prisoner.

(4) A one-year period of limitation shall apply to the filing of a verified motion for postconviction relief. The one-year limitation period shall run from the later of:

(a) The date the judgment of conviction became final by the conclusion of a direct appeal or the expiration of the time for filing a direct appeal;

(b) The date on which the factual predicate of the constitutional claim or claims alleged could have been discovered through the exercise of due diligence;

(c) The date on which an impediment created by state action, in violation of the Constitution of the United States or the Constitution of Nebraska or any law of this state, is removed, if the prisoner was prevented from filing a verified motion by such state action;

(d) The date on which a constitutional claim asserted was initially recognized by the Supreme Court of the United States or the Nebraska Supreme Court, if the newly recognized right has been made applicable retroactively to cases on postconviction collateral review; or

(e) The date on which the Supreme Court of the United States denies a writ of certiorari or affirms a conviction appealed from the Nebraska Supreme Court. This subdivision only applies if, within thirty days after petitioning the Supreme Court of the United States for a writ of certiorari, the prisoner files a notice in the district court of conviction stating that the prisoner has filed such petition.

Source: Laws 1965, c. 145, § 1, p. 486; Laws 2011, LB137, § 1; Laws 2023, LB50, § 18.
Effective date September 2, 2023.

ARTICLE 43

SEXUAL ASSAULT, DOMESTIC VIOLENCE, AND SEX TRAFFICKING

(f) DEBT FOR MEDICAL SERVICES

Section

29-4317. Health care provider, emergency medical services provider, laboratory, or pharmacy; provision of certain services related to sexual assault, domestic assault, or child abuse; acts prohibited.

(f) DEBT FOR MEDICAL SERVICES

29-4317 Health care provider, emergency medical services provider, laboratory, or pharmacy; provision of certain services related to sexual assault, domestic assault, or child abuse; acts prohibited.

(1) A health care provider, an emergency medical services provider, a laboratory, or a pharmacy providing medical services, transportation, medications, or other services related to the examination or treatment of injuries arising out of sexual assault as defined in section 29-4309, domestic assault under section 28-323, or child abuse under section 28-707 shall not:

(a) Refer a bill for such services to a collection agency or an attorney for collection against the victim or the victim’s guardian or family;

(b) Distribute information regarding such services and status of payment in any way that would affect the credit rating of the victim or the victim’s guardian or family; or

(c) Take any other action adverse to the victim or the victim’s guardian or family on account of providing such services.

(2) This section shall not be construed to prevent an entity described in subsection (1) of this section from otherwise seeking payment for such services from the victim or any other source.

(3) If a collection agency or an attorney is referred a debt for a bill described in subsection (1) of this section, then upon notice of the applicability of this section, the collection agency or attorney shall return the debt to the referring

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health care provider, emergency medical services provider, laboratory, or pharmacy.

(4) No private cause of action shall exist under this section against a debt collector.

Source: Laws 2023, LB157, § 5.

Operative date September 2, 2023.

CHAPTER 30

DECEDENTS' ESTATES; PROTECTION OF PERSONS AND PROPERTY

Article.

24. Probate of Wills and Administration.
 Part 12—Collection of Personal Property by Affidavit and Summary Administration
 Procedure for Small Estates. 30-24,125.
26. Protection of Persons under Disability and Their Property.
 Part 3—Guardians of Incapacitated Persons. 30-2626.

ARTICLE 24

PROBATE OF WILLS AND ADMINISTRATION

PART 12

COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT AND SUMMARY ADMINISTRATION PROCEDURE FOR SMALL ESTATES

Section

- 30-24,125. Collection of personal property by affidavit.

PART 12

COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT AND SUMMARY ADMINISTRATION PROCEDURE FOR SMALL ESTATES

30-24,125 Collection of personal property by affidavit.

(a) Thirty days after the death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action to a person claiming to be the successor of the decedent upon being presented an affidavit made by or on behalf of the successor stating:

(1) the value of all of the personal property in the decedent's estate, wherever located, less liens and encumbrances, does not exceed one hundred thousand dollars;

(2) thirty days have elapsed since the death of the decedent as shown in a certified or authenticated copy of the decedent's death certificate attached to the affidavit;

(3) the claiming successor's relationship to the decedent or, if there is no relationship, the basis of the successor's claim to the personal property;

(4) the person or persons claiming as successors under the affidavit swear or affirm that all statements in the affidavit are true and material and further acknowledge that any false statement may subject the person or persons to penalties relating to perjury under section 28-915;

(5) no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction; and

(6) the claiming successor is entitled to payment or delivery of the property.

(b) A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection (a).

(c) Upon the presentation of an affidavit as provided in subsection (a), the claiming successor may endorse or negotiate any instrument evidencing a debt belonging to the decedent that is a check, draft, or other negotiable instrument that is payable to the decedent or the decedent's estate. Notwithstanding the provisions of section 3-403, 3-417, or 3-420, Uniform Commercial Code, a financial institution accepting such a check, draft, or other negotiable instrument presented for deposit in such manner is discharged from all claims for the amount accepted.

(d) In addition to compliance with the requirements of subsection (a), a person seeking a transfer of a certificate of title to a motor vehicle, motorboat, all-terrain vehicle, utility-type vehicle, or minibike shall be required to furnish to the Department of Motor Vehicles an affidavit showing applicability of this section and compliance with the requirements of this section to authorize the department to issue a new certificate of title.

Source: Laws 1974, LB 354, § 203, UPC § 3-1201; Laws 1996, LB 909, § 1; Laws 1999, LB 100, § 4; Laws 1999, LB 141, § 6; Laws 2004, LB 560, § 2; Laws 2009, LB35, § 22; Laws 2010, LB650, § 2; Laws 2022, LB1124, § 1; Laws 2023, LB157, § 8.
Operative date June 7, 2023.

ARTICLE 26

**PROTECTION OF PERSONS UNDER DISABILITY
AND THEIR PROPERTY**

PART 3

GUARDIANS OF INCAPACITATED PERSONS

Section

30-2626. Temporary guardians; limited temporary guardians; power of court.

PART 3

GUARDIANS OF INCAPACITATED PERSONS

30-2626 Temporary guardians; limited temporary guardians; power of court.

(a)(1) If a person alleged to be incapacitated has no guardian and an emergency exists, the court may, pending notice and hearing, exercise the power of a guardian or enter an ex parte order appointing a temporary guardian to address the emergency. The order and letters of temporary guardianship shall specify the powers and duties of the temporary guardian, limiting the powers and duties to those necessary to address the emergency.

(2)(i) For purposes of this subdivision (a)(2):

(A) Benefits means private or government benefits to which a person alleged to be incapacitated may be entitled; and

(B) Covered county means a county containing a city of the metropolitan class or a city of the primary class.

(ii) Subject to subsection (k) of this section, if a person alleged to be incapacitated has no guardian and an emergency exists, the court in a covered county may, pending notice and hearing, enter an ex parte order appointing a temporary guardian for the limited purpose of assisting the person in applying for, validating, and facilitating eligibility for benefits.

(iii) The limited temporary guardian may access personal and financial records of such person as necessary to apply for, validate, and facilitate eligibility for benefits. The order and letters of limited temporary guardianship shall limit the powers and duties to those necessary to carry out this subdivision (a)(2).

(iv) Third parties, including, but not limited to, financial institutions, in possession of such person's financial and personal records related to eligibility for benefits shall provide the limited temporary guardian access to such records. Records to which a limited temporary guardian may be entitled include, but are not limited to, records relating to: Checking, savings, or other bank accounts; household expenses; health, life, or other insurance; wages; pensions; annuities; real property; trusts; burial plans; retirement accounts; stocks and bonds; farm and business equipment; motor vehicles, boats, and motor homes; immigration status; land contracts; promissory notes and loans; social security benefits; credit cards; taxes; or any other asset.

(b) When the court takes action to exercise the powers of a guardian or to appoint a temporary guardian under subsection (a) of this section, an expedited hearing shall be held if requested by the person alleged to be incapacitated, or by any interested person, if the request is filed more than ten business days prior to the date set for the hearing on the petition for appointment of the guardian. If an expedited hearing is to be held, the hearing shall be held within ten business days after the request is received. At the hearing on the temporary appointment, the petitioner shall have the burden of showing by a preponderance of the evidence that temporary guardianship continues to be necessary to address the emergency situation. Unless the person alleged to be incapacitated has counsel of his or her own choice, the court may appoint an attorney to represent the person alleged to be incapacitated at the hearing as provided in section 30-2619.

(c) If an expedited hearing is requested, notice shall be served as provided in section 30-2625. The notice shall specify that a temporary guardian has been appointed and shall be given at least twenty-four hours prior to the expedited hearing.

(d) At the expedited hearing, the court may render a judgment authorizing the temporary guardianship to continue beyond the original ten-day period. The judgment shall prescribe the specific powers and duties of the temporary guardian in the letters of temporary guardianship and shall be effective for a single ninety-day period. For good cause shown, the court may extend the temporary guardianship for successive ninety-day periods.

(e)(1) The temporary guardianship shall terminate at the end of the ninety-day period in which the temporary guardianship is valid or at any time prior thereto if the court deems the circumstances leading to the order for temporary guardianship no longer exist or if an order has been entered as a result of a hearing pursuant to section 30-2619 which has been held during the ninety-day period.

(2) When the duties of a limited temporary guardian appointed pursuant to subdivision (a)(2) of this section have not been completed within ninety days, the court shall accept notification by such guardian as good cause for extending the limited temporary guardianship for an additional ninety days.

(f) If the court denies the request for the ex parte order, the court may, in its discretion, enter an order for an expedited hearing pursuant to subsections (b) through (e) of this section.

(g) If the petitioner requests the entry of an order of temporary guardianship pursuant to subsection (a) of this section without requesting an ex parte order, the court may hold an expedited hearing pursuant to subsections (b) through (e) of this section.

(h) If an appointed guardian is not effectively performing his or her duties and the court further finds that the welfare of the incapacitated person requires immediate action, it may, pending notice and hearing in accordance with section 30-2220, appoint a temporary guardian for the incapacitated person for a specified period not to exceed ninety days. For good cause shown, the court may extend the temporary guardianship for successive ninety-day periods. A temporary guardian appointed pursuant to this subsection has only the powers and duties specified in the previously appointed guardian's letters of guardianship, and the authority of any permanent guardian previously appointed by the court is suspended so long as a temporary guardian has authority.

(i) A temporary guardian may be removed at any time. A temporary guardian shall make any report the court requires, except that a temporary guardian shall not be required to provide the check or report under section 30-2602.02. In other respects the provisions of the Nebraska Probate Code concerning guardians apply to temporary guardians.

(j) The court may appoint the Public Guardian as the temporary guardian pursuant to the Public Guardianship Act.

(k)(1) If the Public Guardian is unable to accept appointment as a limited temporary guardian for the purposes described in subdivision (a)(2) of this section because the Public Guardian has exceeded the average ratio described in subsection (2) of section 30-4115, the court shall appoint an individual to serve as a limited temporary guardian. Appointments of such limited temporary guardians shall be subject to the availability of funds appropriated as described in section 81-3141. When such funds have been exhausted in a fiscal year, no further appointments shall be made.

(2) An individual appointed as a limited temporary guardian pursuant to subdivision (a)(2) of this section shall apply to the court for expenses and fees for services performed. The court, upon hearing the application, shall fix reasonable expenses and fees, and the county board shall pay such guardian in the full amount determined by the court. The court shall set such expenses and fees at levels that: (i) Are similar to expenses and fees paid to guardians and guardians ad litem for comparable work in other legal proceedings in the county; and (ii) are intended to incentivize qualified individuals to provide high-quality services as limited temporary guardians.

(3) A county that has paid expenses and fees as provided in subdivision (k)(2) of this section may apply under section 81-3141 for reimbursement.

Source: Laws 1974, LB 354, § 244, UPC § 5-310; Laws 1978, LB 650, § 22; Laws 1993, LB 782, § 9; Laws 1997, LB 466, § 9; Laws

PROTECTION OF PERSONS UNDER DISABILITY

§ 30-2626

2011, LB157, § 38; Laws 2014, LB920, § 22; Laws 2023, LB157,
§ 9.

Operative date September 2, 2023.

Cross References

Limited Temporary Guardian Aid Program, see section 81-3141.

Public Guardianship Act, see section 30-4101.

CHAPTER 32

ELECTIONS

Article.

1. General Provisions and Definitions. 32-101 to 32-123.
2. Election Officials.
 - (a) Secretary of State. 32-202, 32-202.01.
3. Registration of Voters. 32-308, 32-318.01.
9. Voting and Election Procedures. 32-912.01 to 32-957.
10. Counting and Canvassing Ballots. 32-1002.01, 32-1027.

Cross References

Constitutional provisions:

Amendments to the Constitution of Nebraska, see Article XVI, section 1, Constitution of Nebraska.
 Board of Regents of the University of Nebraska, see Article VII, section 10, Constitution of Nebraska.
 City charter, see Article XI, sections 2 to 5, Constitution of Nebraska.
 Constitutional convention, see Article XVI, section 2, Constitution of Nebraska.
 County and township officers, see Article IX, section 4, Constitution of Nebraska.
 Elected officers, see Article XVII, section 5, Constitution of Nebraska.

Electors:

Place and manner of voting for military or naval service, Article VI, section 3, Constitution of Nebraska.
 Privileged from arrest at elections, Article VI, section 5, Constitution of Nebraska.
 Qualifications, see Article VI, sections 1 and 2, Constitution of Nebraska.
 Voting, see Article VI, section 6, Constitution of Nebraska.
 Executive officers, see Article IV, sections 1 to 4, Constitution of Nebraska.
 Freedom of elections, see Article I, section 22, Constitution of Nebraska.
 General election of state, see Article XVII, section 4, Constitution of Nebraska.
 Identification required for voting, see Article I, section 22, Constitution of Nebraska.
 Initiative measures, see Article III, sections 2 and 4, Constitution of Nebraska.
 Legislators, see Article III, sections 5 to 9 and 12, Constitution of Nebraska.
 Merger or consolidation of municipalities or counties, see Article XV, section 18, Constitution of Nebraska.
 Public Service Commission, see Article IV, section 20, Constitution of Nebraska.
 Referendum measures, see Article III, sections 3 and 4, Constitution of Nebraska.
 Removal of state capital, see Article XV, section 12, Constitution of Nebraska.
 State Board of Education, see Article VII, section 3, Constitution of Nebraska.
 Township organization, see Article IX, section 5, Constitution of Nebraska.

ARTICLE 1

GENERAL PROVISIONS AND DEFINITIONS

Section

- 32-101. Act, how cited.
 32-103. Definitions, where found.
 32-123. Valid photographic identification, defined.

32-101 Act, how cited.

Sections 32-101 to 32-1551 shall be known and may be cited as the Election Act.

Source: Laws 1994, LB 76, § 1; Laws 1995, LB 337, § 1; Laws 1995, LB 514, § 1; Laws 1996, LB 964, § 1; Laws 1997, LB 764, § 8; Laws 2001, LB 768, § 1; Laws 2002, LB 1054, § 7; Laws 2003, LB 181, § 1; Laws 2003, LB 358, § 1; Laws 2003, LB 359, § 1; Laws 2003, LB 521, § 3; Laws 2005, LB 401, § 2; Laws 2005, LB 566, § 1; Laws 2010, LB951, § 1; Laws 2013, LB299, § 1; Laws 2013, LB349, § 1; Laws 2014, LB661, § 1; Laws 2014, LB946, § 3; Laws 2015, LB575, § 5; Laws 2018, LB1065, § 1; Laws 2019, LB492, § 35; Laws 2020, LB1055, § 2; Laws 2022, LB843, § 2; Laws 2023, LB514, § 1.
 Operative date June 2, 2023.

32-103 Definitions, where found.

For purposes of the Election Act, the definitions found in sections 32-104 to 32-120 and 32-123 shall be used.

Source: Laws 1994, LB 76, § 3; Laws 1997, LB 764, § 9; Laws 2003, LB 358, § 2; Laws 2005, LB 566, § 2; Laws 2020, LB1055, § 3; Laws 2022, LB843, § 3; Laws 2023, LB514, § 2.
Operative date June 2, 2023.

32-123 Valid photographic identification, defined.

Valid photographic identification means:

(1) A document issued by the United States, the State of Nebraska, an agency or a political subdivision of the State of Nebraska, or a postsecondary institution within the State of Nebraska that:

- (a) Shows the name of the individual to whom the document was issued; and
- (b) Shows a photograph or digital image of the individual to whom the document was issued;

(2) A document issued by the United States Department of Defense, the United States Department of Veterans Affairs or its predecessor, the Veterans Administration, a branch of the uniformed services as defined in section 85-2902, or a Native American Indian tribe or band recognized by the United States Government that:

- (a) Shows the name of the individual to whom the document was issued; and
- (b) Shows a photograph or digital image of the individual to whom the document was issued; or

(3) A hospital, an assisted-living facility, a nursing home, or any other skilled care facility record that:

- (a) Shows the name of the individual who is the subject of the record; and
- (b) Shows a photograph or digital image of the individual who is the subject of the record.

Source: Laws 2023, LB514, § 3.
Operative date June 2, 2023.

ARTICLE 2

ELECTION OFFICIALS

(a) SECRETARY OF STATE

Section

32-202. Secretary of State; duties.

32-202.01. Secretary of State; match and verify citizenship of registered voter; Attorney General; Department of Motor Vehicles; cooperate.

(a) SECRETARY OF STATE

32-202 Secretary of State; duties.

In addition to any other duties prescribed by law, the Secretary of State shall:

- (1) Supervise the conduct of primary and general elections in this state;
- (2) Provide training and support for election commissioners, county clerks, and other election officials in providing for day-to-day operations of the office, registration of voters, and the conduct of elections;

- (3) Enforce the Election Act;
- (4) With the assistance and advice of the Attorney General, make uniform interpretations of the act;
- (5) Provide periodic training for the agencies and their agents and contractors in carrying out their duties under sections 32-308 to 32-310;
- (6) Develop and print forms for use as required by sections 32-308, 32-310, 32-320, 32-329, 32-947, 32-956, and 32-958;
- (7) Contract with the Department of Administrative Services for storage and distribution of the forms;
- (8) Require reporting to ensure compliance with sections 32-308 to 32-310;
- (9) Prepare and transmit reports as required by the National Voter Registration Act of 1993, 52 U.S.C. 20501 et seq.;
- (10) Develop and print a manual describing the requirements of the initiative and referendum process and distribute the manual to election commissioners and county clerks for distribution to the public upon request;
- (11) Develop and print pamphlets described in section 32-1405.01;
- (12) Adopt and promulgate rules and regulations as necessary for elections conducted under sections 32-952 to 32-959;
- (13) Establish a free access system, such as a toll-free telephone number or an Internet website, that any voter who casts a provisional ballot may access to discover whether the vote of that voter was counted and, if the vote was not counted, the reason that the vote was not counted. The Secretary of State shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system. Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot;
- (14) Provide a website dedicated to voter identification requirements and procedures. The Secretary of State shall establish, maintain, and regularly update on the website a document entitled "List of Acceptable Forms of Identification" that lists forms of identification that qualify as valid photographic identification for purposes of voter identification;
- (15) Provide a public awareness campaign regarding the voter identification requirements and procedures, including communication through multiple mediums and in-person events;
- (16) Provide instructions and information to the Department of Health and Human Services, the Department of Motor Vehicles, and the State Department of Education for distribution by such agencies to Nebraska residents regarding the requirement to present valid photographic identification in order to vote and the way to obtain free valid photographic identification; and
- (17) Not use or allow the use of citizenship information shared with or collected by the Secretary of State pursuant to the Election Act for any purpose other than maintenance of the voter registration list, including law enforcement purposes.

Source: Laws 1994, LB 76, § 22; Laws 1995, LB 337, § 2; Laws 1996, LB 964, § 2; Laws 2003, LB 358, § 5; Laws 2008, LB838, § 1; Laws 2019, LB411, § 30; Laws 2022, LB843, § 8; Laws 2023, LB514, § 4.

Operative date June 2, 2023.

32-202.01 Secretary of State; match and verify citizenship of registered voter; Attorney General; Department of Motor Vehicles; cooperate.

The Secretary of State shall develop a process to use the information in possession of or available to his or her office to match and verify the citizenship of the corresponding registered voter. The Attorney General and the Department of Motor Vehicles shall cooperate with the Secretary of State for such purpose. The Secretary of State may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2023, LB514, § 5.
Operative date June 2, 2023.

ARTICLE 3

REGISTRATION OF VOTERS

Section

32-308. Registration list; verification; voter registration application; Department of Motor Vehicles; duties; registration; when; confidentiality; persons involved in registration; status.

32-318.01. Identification documents; required, when.

32-308 Registration list; verification; voter registration application; Department of Motor Vehicles; duties; registration; when; confidentiality; persons involved in registration; status.

(1) The Secretary of State and the Director of Motor Vehicles shall enter into an agreement to match information in the computerized statewide voter registration list with information in the database of the Department of Motor Vehicles to the extent required to enable each such official to verify the accuracy of the information, including citizenship, provided on applications for voter registration. The Director of Motor Vehicles shall enter into an agreement with the Commissioner of Social Security under section 205(r)(8) of the federal Social Security Act, 42 U.S.C. 405(r)(8), as such section existed on April 17, 2003, for purposes of the Election Act.

(2) The Department of Motor Vehicles, with the assistance of the Secretary of State, shall prescribe a voter registration application which may be used to register to vote or change his or her address for voting purposes at the same time an elector applies for an original or renewal motor vehicle operator's license, an original or renewal state identification card, or a replacement thereof. The voter registration application shall contain the information required pursuant to section 32-312 and shall be designed so that it does not require the duplication of information in the application for the motor vehicle operator's license or state identification card, except that it may require a second signature of the applicant. The department and the Secretary of State shall make the voter registration application available to any person applying for an operator's license or state identification card. The application shall be completed at the office of the department by the close of business on the third Friday preceding any election to be registered to vote at such election. A registration application received after the deadline shall not be processed by the election commissioner or county clerk until after the election.

(3) The Department of Motor Vehicles, in conjunction with the Secretary of State, shall develop a process to electronically transmit voter registration application information received under subsection (2) of this section to the

election commissioner or county clerk of the county in which the applicant resides within the time limits prescribed in subsection (4) of this section. The Director of Motor Vehicles shall designate an implementation date for the process which shall be on or before January 1, 2016.

(4) The voter registration application information shall be transmitted to the election commissioner or county clerk of the county in which the applicant resides not later than ten days after receipt, except that if the voter registration application information is received within five days prior to the third Friday preceding any election, it shall be transmitted not later than five days after its original submission. Any information on whether an applicant registers or declines to register and the location of the office at which he or she registers shall be confidential and shall only be used for voter registration purposes.

(5) For each voter registration application for which information is transmitted electronically pursuant to this section, the Secretary of State shall obtain a copy of the electronic representation of the applicant's signature from the Department of Motor Vehicles' records of his or her motor vehicle operator's license or state identification card for purposes of voter registration. Each voter registration application electronically transmitted under this section shall include information provided by the applicant that includes whether the applicant is a citizen of the United States, whether the applicant is of sufficient age to register to vote, the applicant's residence address, the applicant's postal address if different from the residence address, the date of birth of the applicant, the party affiliation of the applicant or an indication that the applicant is not affiliated with any political party, the applicant's motor vehicle operator's license number, the applicant's previous registration location by city, county, or state, if applicable, and the applicant's signature.

(6) State agency personnel involved in the voter registration process pursuant to this section and section 32-309 shall not be considered deputy registrars or agents or employees of the election commissioner or county clerk.

Source: Laws 1994, LB 76, § 70; Laws 1997, LB 764, § 32; Laws 2003, LB 357, § 6; Laws 2005, LB 566, § 7; Laws 2014, LB661, § 4; Laws 2014, LB777, § 1; Laws 2023, LB514, § 6.
Operative date June 2, 2023.

32-318.01 Identification documents; required, when.

(1)(a) Except as provided by subsection (2) of this section, a person who registers to vote by mail after January 1, 2003, and has not previously voted in an election within the state shall present a photographic identification which is current and valid or a copy of a utility bill, bank statement, government check, paycheck, or other government document which is dated within the sixty days immediately prior to the date of presentation and which shows the same name and residence address of the person provided on the registration application in order to avoid identification requirements at the time of voting pursuant to section 32-914 or 32-947.

(b) Such documentation may be presented at the time of application for registration, after submission of the application for registration, or at the time of voting. The documentation must be received by the election commissioner or county clerk not later than 6 p.m. on the second Friday preceding the election to avoid additional identification requirements at the time of voting at the polling place if the voter votes in person. If the voter is voting using a ballot for

early voting, the documentation must be received by the election commissioner or county clerk prior to the date on which the ballot is mailed to the voter to avoid additional identification requirements at the time of voting. Documentation received after the ballot has been mailed to the voter but not later than the deadline for the receipt of ballots specified in subsection (2) of section 32-908 will be considered timely for purposes of determining the applicant's eligibility to vote in the election.

(c) Such documentation may be presented in person, by mail, or by facsimile transmission.

(d) Failure to present such documentation may result in the ballot not being counted pursuant to verification procedures prescribed in sections 32-1002 and 32-1027.

(2) This section shall not apply to a person who registers to vote by mail after January 1, 2003, and has not previously voted in an election within the state if he or she:

(a) Has provided his or her Nebraska driver's license number or the last four digits of his or her social security number and the election commissioner or county clerk verifies the number provided pursuant to subsection (2) of section 32-312.03;

(b) Is a member of the armed forces of the United States who by reason of active duty is absent from his or her place of residence where the member is otherwise eligible to vote;

(c) Is a member of the United States Merchant Marine who by reason of service is away from his or her place of residence where the member is otherwise eligible to vote;

(d) Is a spouse or dependent of a member of the armed forces of the United States or United States Merchant Marine who is absent from his or her place of residence due to the service of that member;

(e) Resides outside the United States and but for such residence would be qualified to vote in the state if the state was the last place in which the person was domiciled before leaving the United States; or

(f) Is elderly or handicapped and has requested to vote by alternative means other than by casting a ballot at his or her polling place on election day.

(3) In addition to the requirements of this section, a qualified voter shall present valid photographic identification before casting a ballot.

Source: Laws 2005, LB 566, § 20; Laws 2022, LB843, § 19; Laws 2023, LB514, § 7.

Operative date April 1, 2024.

ARTICLE 9

VOTING AND ELECTION PROCEDURES

- Section
- 32-912.01. Voter with religious objection to being photographed; notation on precinct list of registered voters.
- 32-912.02. Standard certification; reasonable impediment; grounds; Secretary of State; duties.
- 32-914. Ballots; distribution procedure.
- 32-915. Provisional ballot; conditions; certification.
- 32-915.03. Provisional voter identification verification envelope; required; when; certification.

Section	
32-941.	Early voting; written request for ballot; procedure.
32-942.	Registered voter anticipating absence on election day; right to vote; method; voter present in county; voting place; person registering to vote and requesting a ballot at same time; treatment of ballot.
32-943.	Ballot to be picked up by agent; written request; procedure; restrictions on agent.
32-953.	Special election by mail; mailing of ballots; requirements; oath; procedure.
32-957.	Special election by mail; verification of signatures; identification requirements.

32-912.01 Voter with religious objection to being photographed; notation on precinct list of registered voters.

(1) A voter with a religious objection to being photographed may inform the election commissioner or county clerk of the county in which the voter resides of such objection in writing prior to an election. If the election commissioner or county clerk receives written notice not later than 6 p.m. on the second Friday preceding the election, the election commissioner or county clerk shall place a notation on the precinct list of registered voters for the polling place that the voter has a religious objection to being photographed.

(2) For all subsequent elections, the election commissioner or county clerk shall place a notation on the precinct list of registered voters for the polling place that the voter has a religious objection to being photographed if such voter:

- (a) Completes a reasonable impediment certification pursuant to section 32-912.02;
- (b) Has a ballot accepted pursuant to section 32-1002.01; and
- (c) Is otherwise eligible to vote.

Source: Laws 2023, LB514, § 12.
Operative date April 1, 2024.

32-912.02 Standard certification; reasonable impediment; grounds; Secretary of State; duties.

(1) The Secretary of State shall provide a standard certification for a voter with a reasonable impediment preventing the voter from presenting valid photographic identification. The certification shall include the following as separate boxes that a voter may check to identify the applicable reasonable impediment:

- (a) Inability to obtain valid photographic identification due to:
 - (i) Disability or illness; or
 - (ii) Lack of a birth certificate or other required documents; or
- (b) Religious objection to being photographed.

(2) The Secretary of State shall provide the form of the certification to the election commissioners and county clerks. A voter who has a reasonable impediment shall execute the certification. The election commissioner or county clerk shall verify the signature on the certification with the signature appearing on the voter registration record. A voter who casts a ballot by mail shall include the certification with the application, except that a voter who casts

a ballot pursuant to section 32-953 shall include the certification within the ballot envelope.

Source: Laws 2023, LB514, § 11.
Operative date April 1, 2024.

32-914 Ballots; distribution procedure.

(1) Official ballots shall be used at all elections. No person shall receive a ballot or be entitled to vote unless and until he or she is registered as a voter except as provided in section 32-914.01, 32-914.02, 32-915, 32-915.01, or 32-936.

(2) Except as otherwise specifically provided, no ballot shall be handed to any voter at any election until:

(a) The voter has presented valid photographic identification and stated the voter's name and address to the clerk of election unless otherwise entitled to vote in the precinct under section 32-915.03;

(b) The clerk has found that the voter is a registered voter at the address as shown by the precinct list of registered voters unless otherwise entitled to vote in the precinct under section 32-328, 32-914.01, 32-914.02, 32-915, or 32-915.01;

(c) The voter has presented a photographic identification which is current and valid at the time of the election, or a copy of a utility bill, bank statement, paycheck, government check, or other government document which is current at the time of the election and which shows the same name and residence address of the voter that is on the precinct list of registered voters, if the voter registered by mail after January 1, 2003, and has not previously voted in an election for a federal office within the county and a notation appears on the precinct list of registered voters that the voter has not previously presented identification to the election commissioner or county clerk;

(d) As instructed by the clerk of election, the registered voter has personally written his or her name (i) in the precinct sign-in register on the appropriate line which follows the last signature of any previous voter or (ii) in the combined document containing the precinct list of registered voters and the sign-in register; and

(e) The clerk has listed on the precinct list of registered voters the corresponding line number and name of the registered voter or has listed the name of the voter in a separate book as provided in section 32-913.

Source: Laws 1994, LB 76, § 257; Laws 1997, LB 764, § 84; Laws 2002, LB 1054, § 19; Laws 2003, LB 358, § 22; Laws 2003, LB 359, § 4; Laws 2005, LB 566, § 34; Laws 2007, LB44, § 2; Laws 2023, LB514, § 8.
Operative date April 1, 2024.

32-915 Provisional ballot; conditions; certification.

(1) A person whose name does not appear on the precinct list of registered voters at the polling place for the precinct in which he or she resides, whose name appears on the precinct list of registered voters at the polling place for the precinct in which he or she resides at a different residence address as described in section 32-914.02, or whose name appears with a notation that he

or she received a ballot for early voting may vote a provisional ballot if he or she:

- (a) Claims that he or she is a registered voter who has continuously resided in the county in which the precinct is located since registering to vote;
- (b) Is not entitled to vote under section 32-914.01 or 32-914.02;
- (c) Has not registered to vote or voted in any other county since registering to vote in the county in which the precinct is located;
- (d) Has appeared to vote at the polling place for the precinct to which the person would be assigned based on his or her residence address; and
- (e) Completes and signs a registration application before voting.

(2) A voter whose name appears on the precinct list of registered voters for the polling place with a notation that the voter is required to present identification pursuant to section 32-318.01 but fails to present identification may vote a provisional ballot if he or she completes and signs a registration application before voting.

(3) Each person voting by provisional ballot shall enclose his or her ballot in an envelope marked Provisional Ballot and shall, by signing the certification on the front of the envelope or a separate form attached to the envelope, certify to the following facts:

- (a) I am a registered voter in County;
- (b) My name or address did not correctly appear on the precinct list of registered voters;
- (c) I registered to vote on or about this date;
- (d) I registered to vote
 - in person at the election office or a voter registration site,
 - by mail,
 - by using the Secretary of State’s website,
 - through the Department of Motor Vehicles,
 - on a form through another state agency,
 - in some other way;
- (e) I have not resided outside of this county or voted outside of this county since registering to vote in this county;
- (f) My current address is shown on the registration application completed as a requirement for voting by provisional ballot; and
- (g) I am eligible to vote in this election and I have not voted and will not vote in this election except by this ballot.

(4) The voter shall sign the certification under penalty of election falsification. The following statements shall be on the front of the envelope or on the attached form: By signing the front of this envelope or the attached form you are certifying to the information contained on this envelope or the attached form under penalty of election falsification. Election falsification is a Class IV felony and may be punished by up to two years imprisonment and twelve months post-release supervision, a fine of up to ten thousand dollars, or both.

(5) If the voter is also required to fill out a provisional voter identification verification envelope pursuant to section 32-915.03, the provisional ballot

envelope shall be placed inside the provisional voter identification verification envelope.

(6) If the person’s name does not appear on the precinct list of registered voters for the polling place and the judge or clerk of election determines that the person’s residence address is located in another precinct within the same county, the judge or clerk of election shall direct the person to his or her correct polling place to vote.

Source: Laws 1994, LB 76, § 258; Laws 1997, LB 764, § 87; Laws 1999, LB 234, § 12; Laws 2003, LB 358, § 24; Laws 2005, LB 401, § 5; Laws 2005, LB 566, § 37; Laws 2010, LB325, § 5; Laws 2010, LB951, § 4; Laws 2014, LB661, § 14; Laws 2017, LB451, § 11; Laws 2023, LB514, § 9.
Operative date April 1, 2024.

32-915.03 Provisional voter identification verification envelope; required; when; certification.

(1) A registered voter shall fill out a provisional voter identification verification envelope if:

(a)(i) The voter fails to produce valid photographic identification at the polling place; and

(ii) The voter’s name appears on the precinct list of registered voters for the polling place or the voter has voted a provisional ballot as provided in section 32-915;

(b) The voter fails to produce valid photographic identification at the time of voting early in person at the office of the election commissioner or county clerk; or

(c) The voter has a reasonable impediment preventing the voter from presenting valid photographic identification or the voter’s name appears on the precinct list of registered voters for the polling place with a notation that the voter has a religious objection to being photographed.

(2) Each voter casting a ballot using a provisional voter identification verification envelope shall enclose the ballot in an envelope marked provisional voter identification verification and shall, by signing the certification on the front of the envelope or a separate form attached to the envelope, certify to the following facts:

(a) My name is;

(b) I am registered to vote at;

(c) I did not provide valid photographic identification as required by law or I have a reasonable impediment preventing me from presenting valid photographic identification;

(d) I am eligible to vote in this election and have not voted and will not vote in this election except by this ballot; and

(e) I acknowledge that my ballot will not be counted if:

(i) I do not provide valid photographic identification to my county election office on or before the Tuesday after the election; or

(ii) I have a reasonable impediment that prevents me from presenting valid photographic identification and:

- (A) I do not complete a reasonable impediment certification; or
- (B) My county election official cannot verify the signature on my reasonable impediment certification.

(3) The voter shall sign the certification under penalty of election falsification. The following statements shall be on the front of the envelope or on the attached form: By signing the front of this envelope or the attached form you are certifying to the information contained on this envelope or the attached form under penalty of election falsification. Election falsification is a Class IV felony and may be punished by up to two years imprisonment and twelve months post-release supervision, a fine of up to ten thousand dollars, or both.

Source: Laws 2023, LB514, § 10.
Operative date April 1, 2024.

32-941 Early voting; written request for ballot; procedure.

(1) Any registered voter permitted to vote early pursuant to section 32-938 may, not more than one hundred twenty days before any election and not later than the close of business on the second Friday preceding the election, request a ballot for the election to be mailed to a specific address. A registered voter shall request a ballot in writing to the election commissioner or county clerk in the county where the registered voter has established his or her home, shall indicate his or her residence address, the address to which the ballot is to be mailed if different, and his or her telephone number if available, and shall include:

- (a) The identification number of the voter's driver's license or state identification card issued by the State of Nebraska;
- (b) A photocopy of any other valid photographic identification issued to or related to the voter; or
- (c) The voter's reasonable impediment certification.

(2) If such identification or certification is not provided, the election commissioner or county clerk shall contact the voter and inform the voter that the ballot will not be issued until the voter provides the identification or certification required under this section.

(3) The registered voter may use the form published by the election commissioner or county clerk pursuant to section 32-808. The registered voter shall sign the request. A registered voter may use a facsimile machine or electronic mail for the submission of a request for a ballot.

(4) The election commissioner or county clerk shall include a registration application with the ballots if the person is not registered. Registration applications shall not be mailed after the third Friday preceding the election. If the person is not registered to vote, the registration application shall be returned not later than the closing of the polls on the day of the election. No ballot issued under this section shall be counted unless such registration application is properly completed and processed.

(5) Subdivisions (1)(a) through (c) of this section do not apply to any voter who casts a ballot pursuant to section 32-939.02 or 32-939.03.

Source: Laws 1994, LB 76, § 284; Laws 1997, LB 764, § 93; Laws 2002, LB 935, § 9; Laws 2005, LB 98, § 13; Laws 2005, LB 566, § 43;

Laws 2011, LB499, § 5; Laws 2015, LB575, § 20; Laws 2016, LB874, § 3; Laws 2023, LB514, § 13.
Operative date April 1, 2024.

32-942 Registered voter anticipating absence on election day; right to vote; method; voter present in county; voting place; person registering to vote and requesting a ballot at same time; treatment of ballot.

(1)(a) A registered voter of this state who anticipates being absent from the county of his or her residence on the day of any election may appear in person before the election commissioner or county clerk not more than thirty days prior to the day of election, present valid photographic identification, and obtain his or her ballot unless otherwise entitled to vote in the office under section 32-915.03. The registered voter shall vote the ballot in the office of the election commissioner or county clerk or shall return the ballot to the office not later than the closing of the polls on the day of the election.

(b) A registered voter who is present in the county on the day of the election and who chooses to vote on the day of the election shall vote at the polling place assigned to the precinct in which he or she resides unless he or she is returning a ballot for early voting or voting pursuant to section 32-943.

(2) If a person registers to vote and requests a ballot at the same time under this section, he or she shall, in addition to the requirements of subsection (1) of this section, (a)(i) present one of the address confirmation documents as prescribed in subdivision (1)(a) of section 32-318.01, (ii) present proof that he or she is a member of the armed forces of the United States who by reason of active duty has been absent from his or her place of residence where the member is otherwise eligible to vote, is a member of the United States Merchant Marine who by reason of service has been away from his or her place of residence where the member is otherwise eligible to vote, is a spouse or dependent of a member of the armed forces of the United States or United States Merchant Marine who has been absent from his or her place of residence due to the service of that member, or resides outside the United States and but for such residence would be qualified to vote in the state if the state was the last place in which the person was domiciled before leaving the United States, or (iii) state that he or she is elderly or handicapped and has requested to vote by alternative means other than by casting a ballot at his or her polling place on election day or (b) vote a ballot which is placed in an envelope with the voter's name and address and other necessary identifying information and kept securely for counting as provided in this subsection. This subsection does not extend the deadline for voter registration specified in section 32-302. A ballot cast pursuant to subdivision (b) of this subsection shall be rejected and shall not be counted if the acknowledgment of registration sent to the registrant pursuant to section 32-322 is returned as undeliverable for a reason other than clerical error within ten days after it is mailed, otherwise after such ten-day period, the ballot shall be counted.

(3) This section applies only to a person who appears in person to obtain a ballot as provided in subsection (1) of this section and does not apply to a ballot mailed to a voter pursuant to section 32-945.

Source: Laws 1994, LB 76, § 285; Laws 2002, LB 935, § 10; Laws 2005, LB 98, § 14; Laws 2005, LB 566, § 44; Laws 2011, LB499, § 6;

Laws 2013, LB271, § 3; Laws 2014, LB565, § 1; Laws 2015, LB575, § 21; Laws 2023, LB514, § 14.
Operative date April 1, 2024.

32-943 Ballot to be picked up by agent; written request; procedure; restrictions on agent.

(1) Any registered voter who is permitted to vote early pursuant to section 32-938 may appoint an agent to submit a request for a ballot for early voting on his or her behalf. The registered voter or his or her agent may request that the ballot be sent to the registered voter by mail or indicate on the request that the agent will personally pick up the ballot for such registered voter from the office of the election commissioner or county clerk. A registered voter or an agent acting on behalf of a registered voter shall request a ballot in writing to the election commissioner or county clerk in the county where the registered voter has established his or her residence, shall indicate the voter's residence address, the address to which the ballot is to be mailed if different, and the voter's telephone number if available and precinct if known, and shall:

(a) Present a valid photographic identification of the voter; or

(b) Include, with the request:

(i) The identification number of the voter's driver's license or state identification card issued by the State of Nebraska;

(ii) A photocopy of valid photographic identification issued to or related to the voter; or

(iii) The voter's reasonable impediment certification. The certification shall be verified pursuant to section 32-1002.01.

(2) The registered voter or the voter's agent may use the form published by the election commissioner or county clerk pursuant to section 32-808. The registered voter or his or her agent shall sign the request.

(3) A candidate for office at such election and any person serving on a campaign committee for such a candidate shall not act as an agent for any registered voter requesting a ballot pursuant to this section unless such person is a member of the registered voter's family. No person shall act as agent for more than two registered voters in any election.

(4) The agent shall pick up the ballot before one hour prior to the closing of the polls on election day and deliver the ballot to the registered voter. The ballot shall be returned not later than the closing of the polls on the day of the election and shall be returned in an identification envelope as provided in section 32-947.

(5) The election commissioner or county clerk shall adopt procedures for the distribution of ballots under this section.

(6) Subdivisions (1)(a) and (b) of this section do not apply to any voter who casts a ballot pursuant to section 32-939.02 or 32-939.03.

Source: Laws 1994, LB 76, § 286; Laws 1997, LB 764, § 94; Laws 2002, LB 935, § 11; Laws 2005, LB 98, § 15; Laws 2005, LB 566, § 45; Laws 2023, LB514, § 15.
Operative date April 1, 2024.

32-953 Special election by mail; mailing of ballots; requirements; oath; procedure.

(1) Except as otherwise provided in subsection (2) of this section, the election commissioner or county clerk shall mail the official ballot to all registered voters of the political subdivision or the district or ward of the political subdivision at the addresses appearing on the voter registration register on the same day. The ballots shall be mailed by nonforwardable first-class mail not sooner than the twenty-second day before the date set for the election and not later than the tenth day before the date set for the election. The election commissioner or county clerk shall include with the ballot instructions sufficient to describe the voting process and an unsealed identification envelope. Upon the back of the identification envelope shall be printed boxes sufficient for the voter to provide the voter's Nebraska driver's license number or state identification card number and a form substantially as follows:

VOTER'S OATH

I, the undersigned voter, declare that the enclosed ballot or ballots contained no voting marks of any kind when I received them and that I caused the ballot or ballots to be marked, enclosed in the identification envelope, and sealed in such envelope.

To the best of my knowledge and belief, I declare under penalty of election falsification that:

(a) I,, am a registered voter in County;

(b) I reside in the State of Nebraska at

(c) I have voted the enclosed ballot and am returning it in compliance with Nebraska law;

(d) I have not voted and will not vote in this election except by this ballot; and

(e)(i) My Nebraska driver's license number or state identification card number is written in the corresponding boxes;

(ii) A photocopy of my valid photographic identification is enclosed; or

(iii) I have a reasonable impediment that prevents me from presenting valid photographic identification and my certification is enclosed.

ANY PERSON WHO SIGNS THIS FORM KNOWING THAT ANY OF THE INFORMATION IN THE FORM IS FALSE SHALL BE GUILTY OF ELECTION FALSIFICATION, A CLASS IV FELONY UNDER SECTION 32-1502 OF THE STATUTES OF NEBRASKA. THE PENALTY FOR ELECTION FALSIFICATION IS IMPRISONMENT FOR UP TO TWO YEARS AND TWELVE MONTHS POST-RELEASE SUPERVISION OR A FINE NOT TO EXCEED TEN THOUSAND DOLLARS, OR BOTH.

I also understand that failure to sign below will invalidate my ballot.

Signature

(2) The election commissioner or county clerk may choose not to mail a ballot to all registered voters who have been sent a notice pursuant to section 32-329 and failed to respond to the notice. If the election commissioner or county clerk chooses not to mail a ballot to such voters, he or she shall mail a notice to all such registered voters explaining how to obtain a ballot and stating the applicable deadlines.

(3) This section does not apply to any voter who casts a ballot pursuant to section 32-939.02 or 32-939.03.

Source: Laws 1996, LB 964, § 6; Laws 2008, LB838, § 3; Laws 2014, LB946, § 17; Laws 2015, LB575, § 24; Laws 2016, LB874, § 6; Laws 2023, LB514, § 16.
Operative date April 1, 2024.

32-957 Special election by mail; verification of signatures; identification requirements.

(1) An official ballot under section 32-953 shall be counted only if it is returned in the identification envelope, the envelope is signed by the voter to whom it was issued, the signature is verified by the election commissioner or county clerk, and the voter provided the voter's driver's license number or state identification card number on the envelope or provided a photocopy of valid photographic identification or a reasonable impediment certification inside the envelope.

(2) The election commissioner or county clerk shall verify the signature on each identification envelope received in his or her office with the signature appearing on the voter registration records. If the election commissioner or county clerk is unable to verify a signature, the election commissioner or county clerk shall contact the voter within two days after determining that he or she is unable to verify the signature to ascertain whether the voter cast a ballot. The election commissioner or county clerk may request that the registered voter sign and submit a current signature card pursuant to section 32-318. The election commissioner or county clerk may begin verifying the signatures as the envelopes are received in his or her office.

(3) If a voter fails to provide the voter's driver's license number or state identification card number, valid photographic identification, or a reasonable impediment certification as required under subsection (1) of this section, the election commissioner or county clerk shall contact the voter no later than the day after the election and the voter shall present valid photographic identification or a reasonable impediment certification to the election commissioner or county clerk on or before the Tuesday after the election or the ballot shall not be counted.

(4) If the election commissioner or county clerk determines that a voter has voted more than once, no ballot cast by that voter in that election shall be counted. The election commissioner or county clerk shall make public any record or list of registered voters who have returned their ballots.

(5) Subsections (1) and (3) of this section do not apply to any voter who casts a ballot pursuant to section 32-939.02 or 32-939.03.

Source: Laws 1996, LB 964, § 10; Laws 2008, LB838, § 5; Laws 2014, LB946, § 19; Laws 2023, LB514, § 17.
Operative date April 1, 2024.

ARTICLE 10

COUNTING AND CANVASSING BALLOTS

Section

32-1002.01. Provisional voter identification verification envelopes; procedure to verify; ballots; when counted.

Section

32-1027. Counting board for early voting; appointment; duties.

32-1002.01 Provisional voter identification verification envelopes; procedure to verify; ballots; when counted.

(1) As the ballots are removed from the ballot box pursuant to sections 32-1012 to 32-1018, the receiving board shall separate the provisional voter identification verification envelopes from the rest of the ballots and deliver them to the election commissioner or county clerk.

(2) Upon receipt of a provisional voter identification verification envelope, the election commissioner or county clerk shall verify that the certificate on the front of the envelope or the form attached to the envelope is in proper form and that the certification has been signed by the voter.

(3) The election commissioner or county clerk shall also verify that such person has not voted anywhere else in the county or been issued a ballot for early voting.

(4) A ballot cast by a voter pursuant to section 32-915.03 shall be counted if the voter completed and signed the certification on the provisional voter identification verification envelope and the voter:

(a) Presented valid photographic identification to the election commissioner or county clerk on or before the Tuesday after the election; or

(b) Has a reasonable impediment preventing the voter from presenting valid photographic identification, the voter completes a reasonable impediment certification, and the election commissioner or county clerk verifies the signature on the reasonable impediment certification with the signature appearing on the voter registration record.

(5) A ballot cast by a voter pursuant to section 32-915.03 shall not be counted if:

(a) The voter failed to complete and sign the certification on the provisional voter identification verification envelope pursuant to subsection (2) of section 32-915.03;

(b) The voter failed to present valid photographic identification to the election commissioner or county clerk on or before the Tuesday after the election; or

(c) The voter has a reasonable impediment preventing the voter from presenting valid photographic identification and:

(i) The voter did not complete a reasonable impediment certification; or

(ii) The election commissioner or county clerk was not able to verify the signature on the reasonable impediment certification with the signature appearing on the voter registration record.

(6) Upon determining that the voter's ballot is eligible to be counted, the election commissioner or county clerk shall remove the ballot from the provisional voter identification verification envelope without exposing the marks on the ballot and shall place the ballot with the ballots to be counted by the county canvassing board.

(7) The election commissioner or county clerk shall notify the system administrator of the free access system created pursuant to section 32-202 as to whether the ballot was counted and, if not, the reason the ballot was not counted.

(8) The verification shall be completed within seven business days after the election.

Source: Laws 2023, LB514, § 18.
Operative date April 1, 2024.

32-1027 Counting board for early voting; appointment; duties.

(1) The election commissioner or county clerk shall appoint two or more registered voters to the counting board for early voting. One registered voter shall be appointed from the political party casting the highest number of votes for Governor or for President of the United States in the county in the immediately preceding general election, and one registered voter shall be appointed from the political party casting the next highest vote for such office. The election commissioner or county clerk may appoint additional registered voters to serve on the counting board and may appoint registered voters to serve in case of a vacancy among any of the members of the counting board. Such appointees shall be balanced between the political parties and may include registered voters unaffiliated with any political party. The counting board may begin carrying out its duties not earlier than the second Friday before the election and shall meet as directed by the election commissioner or county clerk.

(2) The counting board shall place all identification envelopes in order and shall review each returned identification envelope pursuant to verification procedures prescribed in subsections (3) and (4) of this section.

(3) In its review, the counting board shall determine if:

(a) The voter has provided his or her name, residence address, and signature on the voter identification envelope;

(b) The ballot has been received from the voter who requested it and the residence address is the same address provided on the voter's request for a ballot for early voting, by comparing the information provided on the identification envelope with information recorded in the record of early voters or the voter's request;

(c) A completed and signed registration application has been received from the voter by the deadline in section 32-302, 32-321, or 32-325 or by the close of the polls pursuant to section 32-945;

(d) An identification document has been received from the voter not later than the close of the polls on election day if required pursuant to section 32-318.01; and

(e) A completed and signed registration application and oath has been received from the voter by the close of the polls on election day if required pursuant to section 32-946.

(4) On the basis of its review, the counting board shall determine whether the ballot shall be counted or rejected as follows:

(a) A ballot received from a voter who was properly registered on or prior to the deadline for registration pursuant to section 32-302 or 32-321 shall be accepted for counting without further review if:

(i) The name on the identification envelope appears to be that of a registered voter to whom a ballot for early voting has been issued or sent;

(ii) The residence address provided on the identification envelope is the same residence address at which the voter is registered or is in the same precinct and subdivision of a precinct, if any; and

(iii) The identification envelope has been signed by the voter;

(b) In the case of a ballot received from a voter who was not properly registered prior to the deadline for registration pursuant to section 32-302 or 32-321, the ballot shall be accepted for counting if:

(i) A valid registration application completed and signed by the voter has been received by the election commissioner or county clerk prior to the close of the polls on election day;

(ii) The name on the identification envelope appears to be that of the person who requested the ballot;

(iii) The residence address provided on the identification envelope and on the registration application is the same as the residence address as provided on the voter's request for a ballot for early voting; and

(iv) The identification envelope has been signed by the voter;

(c) In the case of a ballot received from a voter without a residence address who requested a ballot pursuant to section 32-946, the ballot shall be accepted for counting if:

(i) The name on the identification envelope appears to be that of a registered voter to whom a ballot has been sent;

(ii) A valid registration application completed and signed by the voter, for whom the residence address is deemed to be the address of the office of the election commissioner or county clerk pursuant to section 32-946, has been received by the election commissioner or county clerk prior to the close of the polls on election day;

(iii) The oath required pursuant to section 32-946 has been completed and signed by the voter and received by the election commissioner or county clerk by the close of the polls on election day; and

(iv) The identification envelope has been signed by the voter;

(d) In the case of a ballot received from a registered voter required to present identification before voting pursuant to section 32-318.01, the ballot shall be accepted for counting if:

(i) The name on the identification envelope appears to be that of a registered voter to whom a ballot has been issued or sent;

(ii) The residence address provided on the identification envelope is the same address at which the voter is registered or is in the same precinct and subdivision of a precinct, if any;

(iii) A copy of an identification document authorized in section 32-318.01 has been received by the election commissioner or county clerk prior to the close of the polls on election day; and

(iv) The identification envelope has been signed by the voter; and

(e) In the case of a ballot received from a registered voter who filled out a reasonable impediment certification pursuant to section 32-912.02, the ballot shall be accepted for counting if:

(i) The signature on the certification matches the signature on file with the election commissioner or county clerk;

(ii) The name on the identification envelope appears to be that of a registered voter to whom a ballot has been issued or sent;

(iii) The residence address provided on the identification envelope is the same address at which the voter is registered or is in the same precinct and subdivision of a precinct, if any; and

(iv) The identification envelope has been signed by the voter.

(5) In opening the identification envelope or the return envelope to determine if registration applications, oaths, or identification documents have been enclosed by the voters from whom they are required, the counting board shall make a good faith effort to ensure that the ballot remains folded and that the secrecy of the vote is preserved.

(6) The counting board may, on the second Friday before the election, open all identification envelopes which are approved, and if the signature of the election commissioner or county clerk or his or her employee is on the ballot, the ballot shall be unfolded, flattened for purposes of using the optical scanner, and placed in a sealed container for counting as directed by the election commissioner or county clerk. At the discretion of the election commissioner or county clerk, the counting board may begin counting early ballots no earlier than twenty-four hours prior to the opening of the polls on the day of the election.

(7) If an identification envelope is rejected, the counting board shall not open the identification envelope. The counting board shall write Rejected on the identification envelope and the reason for the rejection. If the ballot is rejected after opening the identification envelope because of the absence of the official signature on the ballot, the ballot shall be reinserted in the identification envelope which shall be resealed and marked Rejected, no official signature. The counting board shall place the rejected identification envelopes and ballots in a container labeled Rejected Ballots and seal it.

(8) As soon as all ballots have been placed in the sealed container and rejected identification envelopes or ballots have been sealed in the Rejected Ballots container, the counting board shall count the ballots the same as all other ballots and an unofficial count shall be reported to the election commissioner or county clerk. No results shall be released prior to the closing of the polls on election day.

Source: Laws 1994, LB 76, § 321; Laws 1999, LB 802, § 18; Laws 2002, LB 935, § 16; Laws 2005, LB 98, § 26; Laws 2005, LB 566, § 54; Laws 2007, LB646, § 13; Laws 2020, LB1055, § 15; Laws 2023, LB514, § 19.

Operative date April 1, 2024.

CHAPTER 37

GAME AND PARKS

Article.

1. Game and Parks Commission. 37-104.
3. Commission Powers and Duties.
 - (b) Funds. 37-324.
4. Permits and Licenses.
 - (a) General Permits. 37-407.
 - (b) Special Permits and Licenses. 37-447 to 37-492.
5. Regulations and Prohibited Acts.
 - (e) Damage by Wildlife. 37-559.
7. Recreational Lands.
 - (a) Reserves and Sanctuaries. 37-708.
18. Water Recreation Enhancement. 37-1804.

ARTICLE 1

GAME AND PARKS COMMISSION

Section

- 37-104. Game and Parks Commission; meetings; special meeting; notice; place; quorum; agreement with city of Lincoln for building and facilities; location.

37-104 Game and Parks Commission; meetings; special meeting; notice; place; quorum; agreement with city of Lincoln for building and facilities; location.

Regular meetings of the Game and Parks Commission shall be held quarterly. Special meetings may be held upon call of the chairperson or pursuant to a call signed by three other members, of which the chairperson shall have three days' written notice. No official action shall be taken except at a public meeting at the headquarters of the commission or at a public meeting at a location within the state as determined by a majority of members of the commission. Five members of the commission shall constitute a quorum for the transaction of business.

All regular meetings held in Lincoln, Nebraska, shall be held in suitable offices to be provided under the authority of Chapter 72, article 14. The Game and Parks Commission is authorized to enter into an agreement with the city of Lincoln providing for the supplying by the city of Lincoln to the State of Nebraska for the commission of a headquarters office building and related buildings and facilities therefor, including the parking of motor vehicles, to be located on real estate which is north of Holdrege Street and east of 33rd Street.

Source: Laws 1969, c. 776, § 1, p. 2947; Laws 1997, LB 141, § 1; R.S.Supp.,1997, § 81-803.01; Laws 1998, LB 922, § 4; Laws 2023, LB565, § 22.

Operative date September 2, 2023.

ARTICLE 3

COMMISSION POWERS AND DUTIES

(b) FUNDS

Section

37-324. Funds from permits and publications; placed in the State Game Fund; how used.

(b) FUNDS

37-324 Funds from permits and publications; placed in the State Game Fund; how used.

(1) The funds derived from the sale of permits and publications as provided in the Game Law, any unexpended balance now on hand from the sale of hunting, fur-harvesting, and fishing permits, and all money required by the Game Law to be paid into the State Game Fund are hereby appropriated to the use of the commission (a) for the propagation, importation, protection, preservation, and distribution of game and fish and necessary equipment therefor and all things pertaining thereto, (b) for the creation of cash funds under section 37-326, (c) for the administration and enforcement of the State Boat Act, (d) for boating safety educational programs, (e) for the construction and maintenance of boating and docking facilities, navigation aids, and access to boating areas and such other uses which will promote the safety and convenience of the boating public in Nebraska, (f) for payment of claims by landowners in Nebraska for property damage caused by deer, antelope, or elk, if such payment is in compliance with federal laws and regulations, and (g) for publishing costs for publications relating to topics listed in subdivisions (a) and (b) of this subsection and other topics of general interest to the state as approved by the commission. An amount equal to two dollars from each annual resident fishing permit and two dollars from each combination hunting and fishing permit sold in this state shall be used by the commission for the administration, construction, operation, and maintenance of fish hatcheries and for the distribution of fish.

(2) Expenditures for publications on topics of general interest to the state shall not exceed the income derived from single-copy and subscription sales of commission publications and advertising revenue from such publications.

Source: Laws 1929, c. 112, II, § 12, p. 412; C.S.1929, § 37-212; Laws 1935, c. 82, § 1, p. 271; Laws 1943, c. 94, § 4, p. 324; R.S.1943, § 37-212; Laws 1959, c. 153, § 1, p. 579; Laws 1965, c. 196, § 1, p. 596; Laws 1976, LB 717, § 1; Laws 1981, LB 72, § 7; Laws 1987, LB 105, § 3; Laws 1987, LB 785, § 1; Laws 1989, LB 34, § 10; R.S.1943, (1993), § 37-212; Laws 1998, LB 922, § 82; Laws 2003, LB 305, § 2; Laws 2023, LB818, § 8.
Effective date May 25, 2023.

Cross References

State Boat Act, see section 37-1201.

ARTICLE 4
PERMITS AND LICENSES

(a) GENERAL PERMITS

Section

37-407. Hunting, fishing, and fur-harvesting permits; fees.

(b) SPECIAL PERMITS AND LICENSES

37-447. Permit to hunt deer; commission; powers; issuance; fee; violation; penalty.

37-448. Special deer, antelope, and elk depredation season; extension of existing hunting season; permit; issuance; fees.

37-449. Permit to hunt antelope; regulation and limitation by commission; issuance; fees; violation; penalty.

37-451. Permit to hunt mountain sheep; regulation and limitation by commission; issuance; fee; violation; penalty.

37-453. Permit to hunt deer, antelope, or elk; individual or joint application; ineligibility of individual, when.

37-457. Hunting wild turkey; permit required; fee; issuance.

37-492. Commission; rules and regulations; commission orders; limitations upon game breeding and controlled shooting areas.

(a) GENERAL PERMITS

37-407 Hunting, fishing, and fur-harvesting permits; fees.

(1) The commission may offer multiple-year permits or combinations of permits at reduced rates and may establish fees pursuant to section 37-327 to be paid to the state for resident and nonresident annual hunting permits, annual fishing permits, three-day fishing permits, one-day fishing permits, combination hunting and fishing permits, fur-harvesting permits, and nonresident two-day hunting permits issued for periods of two consecutive days, as provided in this section.

(2) The fee for a multiple-year permit shall be established by the commission pursuant to section 37-327 and shall not be more than the number of years the permit will be valid times the fee required for an annual permit as provided in subsection (3) or (4) of this section. Payment for a multiple-year permit shall be made in a lump sum at the time of application. A replacement multiple-year permit may be issued under section 37-409 if the original is lost or destroyed.

(3) Resident fees shall be (a) not more than eighteen dollars for an annual hunting permit, (b) not more than twenty-four dollars for an annual fishing permit, (c) not more than fifteen dollars for a three-day fishing permit, (d) not more than nine dollars for a one-day fishing permit, (e) not more than thirty-nine dollars for an annual fishing and hunting permit, and (f) not more than twenty dollars for an annual fur-harvesting permit.

(4) Nonresident fees shall be (a) not more than two hundred sixty dollars for a period of time specified by the commission for fur harvesting one thousand or less fur-bearing animals and not more than seventeen dollars and fifty cents additional for each one hundred or part of one hundred fur-bearing animals harvested, (b)(i) for persons sixteen years of age and older, not more than one hundred thirty-eight dollars for an annual hunting permit and (ii) for persons under sixteen years of age, not less than the fee required pursuant to subdivision (3)(a) of this section for an annual hunting permit, (c) not more than ninety-five dollars for a two-day hunting permit plus the cost of a habitat stamp, (d) not more than fifteen dollars for a one-day fishing permit, (e) not more than

twenty-nine dollars for a three-day fishing permit, (f) not more than eighty-six dollars for an annual fishing permit, and (g)(i) for persons sixteen years of age and older, not more than two hundred seven dollars for an annual fishing and hunting permit and (ii) for persons under sixteen years of age, not less than the fee required pursuant to subdivision (3)(e) of this section for an annual fishing and hunting permit.

(5) The commission may offer permits or combinations of permits at temporarily reduced rates for specific events or during specified timeframes.

Source: Laws 1929, c. 112, II, § 4, p. 410; C.S.1929, § 37-204; Laws 1935, c. 84, § 2, p. 275; Laws 1939, c. 44, § 1, p. 203; C.S.Supp.,1941, § 37-204; Laws 1943, c. 94, § 3, p. 323; R.S.1943, § 37-204; Laws 1945, c. 78, § 1, p. 288; Laws 1947, c. 132, § 1, p. 374; Laws 1949, c. 101, § 1, p. 278; Laws 1955, c. 130, § 1, p. 376; Laws 1957, c. 140, § 2, p. 475; Laws 1959, c. 150, § 1, p. 568; Laws 1963, c. 203, § 1, p. 654; Laws 1963, c. 202, § 2, p. 652; Laws 1965, c. 195, § 1, p. 594; Laws 1967, c. 215, § 1, p. 576; Laws 1969, c. 290, § 1, p. 1060; Laws 1972, LB 777, § 1; Laws 1974, LB 811, § 4; Laws 1975, LB 489, § 1; Laws 1976, LB 861, § 4; Laws 1977, LB 129, § 1; Laws 1979, LB 78, § 1; Laws 1979, LB 553, § 1; Laws 1981, LB 72, § 4; Laws 1987, LB 105, § 2; Laws 1989, LB 34, § 5; Laws 1993, LB 235, § 6; Laws 1995, LB 579, § 1; Laws 1995, LB 583, § 1; R.S.Supp.,1996, § 37-204; Laws 1998, LB 922, § 117; Laws 2001, LB 111, § 1; Laws 2002, LB 1003, § 19; Laws 2003, LB 306, § 1; Laws 2005, LB 162, § 2; Laws 2007, LB299, § 2; Laws 2009, LB105, § 5; Laws 2011, LB41, § 4; Laws 2016, LB745, § 4; Laws 2020, LB287, § 6; Laws 2023, LB565, § 23.

Operative date September 2, 2023.

(b) SPECIAL PERMITS AND LICENSES

37-447 Permit to hunt deer; commission; powers; issuance; fee; violation; penalty.

(1) The commission may issue permits for the hunting of deer and adopt and promulgate rules and regulations and pass commission orders pursuant to section 37-314 to prescribe limitations for the hunting, transportation, and possession of deer. The commission may offer permits or combinations of permits at temporarily reduced rates for specific events or during specified timeframes. The commission may specify by rule and regulation the information to be required on applications for such permits. Rules and regulations for the hunting, transportation, and possession of deer may include, but not be limited to, rules and regulations as to the type, caliber, and other specifications of firearms and ammunition used and specifications for bows and arrows used. Such rules and regulations may further specify and limit the method of hunting deer and may provide for dividing the state into management units or areas, and the commission may enact different deer hunting regulations for the different management units pertaining to sex, species, and age of the deer hunted.

(2) The number of such permits may be limited as provided by the rules and regulations of the commission, and except as provided in section 37-454, the permits shall be allocated in an impartial manner. Whenever the commission

deems it advisable to limit the number of permits issued for any or all management units, the commission shall, by rules and regulations, determine eligibility to obtain such permits. In establishing eligibility, the commission may give preference to persons who did not receive a permit or a specified type of permit during the previous year or years.

(3) Such permits may be issued to allow deer hunting in the Nebraska National Forest and other game reserves and such other areas as the commission may designate whenever the commission deems that permitting such hunting will not be detrimental to the proper preservation of wildlife in Nebraska in such forest, reserves, or areas.

(4)(a) The commission may, pursuant to section 37-327, establish and charge a nonrefundable application fee of not more than seven dollars for deer permits in those management units awarded on the basis of a random drawing. The commission shall, pursuant to section 37-327, establish and charge a fee of not more than thirty-nine dollars for residents and not more than three hundred sixty-nine dollars for nonresidents for each permit issued under this section except as otherwise provided in subdivision (b) of this subsection and subsection (6) of this section. The commission may, pursuant to section 37-327, establish and charge a fee of not more than twenty-four dollars for residents and not more than seventy-two dollars for nonresidents for the issuance of a preference point, in addition to any application fee, in lieu of entering the draw for a deer permit during the application period for the random drawing.

(b) The fee for a statewide buck-only permit limited to white-tailed deer shall be no more than two and one-half times the amount of a regular deer permit. The fee for a statewide buck-only deer permit that allows harvest of mule deer shall be no more than five times the amount of a regular deer permit.

(5)(a) The commission may issue nonresident permits after preference has been given for the issuance of resident permits as provided in rules and regulations adopted and promulgated by the commission.

(b) In management units specified by the commission, the commission may issue nonresident permits after resident preference has been provided by allocating at least eighty-five percent of the available permits to residents. The commission may require a predetermined application period for permit applications in specified management units. Such permits shall be issued after a reasonable period for making application, as established by the commission, has expired. When more valid applications are received for a designated management unit than there are permits available, such permits shall be allocated on the basis of a random drawing. All valid applications received during the predetermined application period shall be considered equally in any such random drawing without regard to time of receipt of such applications by the commission.

(6) The commission shall, pursuant to section 37-327, establish and charge a fee of not more than twenty-five dollars for residents and not more than forty-five dollars for nonresidents for a youth deer permit.

(7) Any person violating the rules and regulations adopted and promulgated or commission orders passed pursuant to this section shall be guilty of a Class II misdemeanor and shall be fined at least one hundred dollars upon conviction.

Source: Laws 1945, c. 85, § 1, p. 305; Laws 1947, c. 133, § 1, p. 376; Laws 1949, c. 103, § 1(1), p. 282; Laws 1951, c. 109, § 1, p. 517;

Laws 1953, c. 124, § 1, p. 389; Laws 1957, c. 141, § 1, p. 477; Laws 1959, c. 156, § 1, p. 584; Laws 1969, c. 292, § 1, p. 1063; Laws 1972, LB 777, § 3; Laws 1974, LB 767, § 1; Laws 1976, LB 861, § 6; Laws 1979, LB 437, § 1; Laws 1981, LB 72, § 11; Laws 1984, LB 1001, § 1; Laws 1985, LB 557, § 2; Laws 1993, LB 235, § 13; Laws 1994, LB 1088, § 4; Laws 1995, LB 583, § 2; Laws 1995, LB 862, § 1; Laws 1996, LB 584, § 6; Laws 1997, LB 107, § 2; R.S.Supp., 1997, § 37-215; Laws 1998, LB 922, § 157; Laws 1999, LB 176, § 42; Laws 2003, LB 306, § 4; Laws 2005, LB 162, § 15; Laws 2007, LB299, § 7; Laws 2009, LB105, § 15; Laws 2013, LB94, § 1; Laws 2013, LB499, § 5; Laws 2016, LB745, § 11; Laws 2020, LB287, § 11; Laws 2023, LB565, § 24.
Operative date September 2, 2023.

37-448 Special deer, antelope, and elk depredation season; extension of existing hunting season; permit; issuance; fees.

(1) Subject to rules and regulations adopted and promulgated by the commission, the secretary of the commission may designate, by order, special deer, antelope, and elk depredation seasons or extensions of existing hunting seasons. The secretary may designate a depredation season or an extension of an existing hunting season whenever he or she determines that deer, antelope, or elk are causing excessive property damage. The secretary shall specify the number of permits to be issued, the species, sex, and number or quota of animals allowed to be taken, the bag limit for such species, the beginning and ending dates for the depredation season or hunting season extension, any limitations on nonresident permits, shooting hours, the length of the depredation season or hunting season extension, and the geographic area in which hunting will be permitted. The rules and regulations shall allow use of any weapon permissible for use during the regular deer, antelope, or elk season.

(2) The depredation season may commence not less than five days after the first public announcement that the depredation season has been established. Permits shall be issued in an impartial manner at a location determined by the secretary. The commission shall, pursuant to section 37-327, establish and charge a fee of not more than twenty-five dollars for a resident special depredation season permit and a fee of not more than seventy-five dollars for a nonresident special depredation season permit. The commission shall, pursuant to section 37-327, establish and charge a fee of not more than ten dollars for a landowner special depredation season permit for the taking of deer and antelope for any person owning or operating at least twenty acres of farm or ranch land within the geographic area in which hunting will be permitted and to any member of the immediate family of any such person as defined in subdivision (2)(a) of section 37-455, and for the taking of elk for any person owning or operating at least eighty acres of farm or ranch land within the geographic area in which hunting will be permitted and to any member of the immediate family of such person as defined in subdivision (2)(a) of section 37-455. A special depredation season permit shall be valid only within such area and only during the designated depredation season. The commission shall use the income from the sale of special depredation season permits for abatement of damage caused by deer, antelope, and elk. Receipt of a depredation

season permit shall not in any way affect a person's eligibility for a permit issued under section 37-447, 37-449, 37-450, or 37-455.

Source: Laws 1998, LB 922, § 158; Laws 2008, LB1162, § 4; Laws 2010, LB836, § 2; Laws 2012, LB928, § 3; Laws 2013, LB499, § 6; Laws 2021, LB507, § 2; Laws 2023, LB565, § 25.
Operative date September 2, 2023.

37-449 Permit to hunt antelope; regulation and limitation by commission; issuance; fees; violation; penalty.

(1) The commission may issue permits for hunting antelope and may adopt and promulgate separate and, when necessary, different rules and regulations therefor within the limitations prescribed in sections 37-447 and 37-452 for hunting deer. The commission may offer permits or combinations of permits at reduced rates for specific events or during specified timeframes.

(2) The commission may, pursuant to section 37-327, establish and charge a nonrefundable application fee of not more than seven dollars for antelope permits in those management units awarded on the basis of a random drawing. The commission shall, pursuant to section 37-327, establish and charge a fee of not more than thirty-nine dollars for residents and not more than two hundred fifty-seven dollars for nonresidents for each permit issued under this section except as provided in subsection (4) of this section. The commission may, pursuant to section 37-327, establish and charge a fee of not more than twenty-four dollars for residents and not more than seventy-two dollars for nonresidents for the issuance of a preference point, in addition to any application fee, in lieu of entering the draw for an antelope permit during the application period for the random drawing.

(3) The provisions for the distribution of deer permits and the authority of the commission to determine eligibility of applicants for permits as described in sections 37-447 and 37-452 shall also apply to the distribution of antelope permits.

(4) The commission shall, pursuant to section 37-327, establish and charge a fee of not more than twenty-five dollars for residents and not more than forty-five dollars for nonresidents for a youth antelope permit.

(5) Any person violating the rules and regulations adopted and promulgated pursuant to this section shall be guilty of a Class II misdemeanor and shall be fined at least one hundred dollars upon conviction.

Source: Laws 1998, LB 922, § 159; Laws 2003, LB 305, § 14; Laws 2003, LB 306, § 5; Laws 2007, LB299, § 8; Laws 2009, LB105, § 16; Laws 2016, LB745, § 12; Laws 2020, LB287, § 12; Laws 2023, LB565, § 26.
Operative date September 2, 2023.

37-451 Permit to hunt mountain sheep; regulation and limitation by commission; issuance; fee; violation; penalty.

(1) The commission may issue permits for hunting mountain sheep and may adopt and promulgate separate and, when necessary, different rules and regulations therefor within the limitations prescribed in subsection (1) of section 37-447 and section 37-452 for hunting deer. Such rules and regulations shall include provisions allowing persons who find dead mountain sheep, or

any part of a mountain sheep, to turn over to the commission such mountain sheep or part of a mountain sheep. The commission may dispose of such mountain sheep or part of a mountain sheep as it deems reasonable and prudent. Except as otherwise provided in this section, the permits shall be issued to residents of Nebraska.

(2) The commission shall, pursuant to section 37-327, establish and charge a nonrefundable application fee of not more than thirty-four dollars for permits issued only to residents. Any number of resident-only permits, as authorized by the commission, shall be awarded by random drawing to eligible applicants. No permit fee shall be charged in addition to the nonrefundable application fee.

(3) No more than one additional permit may be authorized and issued pursuant to an auction open to residents and nonresidents. The auction shall be conducted according to rules and regulations prescribed by the commission. Any money derived from the sale of permits by auction shall be used only for perpetuation and management of mountain sheep, elk, and deer.

(4) If the commission determines to limit the number of permits issued for any or all management units, the commission shall by rule and regulation determine eligibility requirements for the permits.

(5) A person may obtain only one mountain sheep permit in his or her lifetime, except that an auction permit issued in accordance with subsection (3) of this section to harvest a mountain sheep shall not count against such total.

(6) Any person violating the rules and regulations adopted and promulgated pursuant to this section shall be guilty of a Class III misdemeanor and shall be fined at least five hundred dollars upon conviction.

Source: Laws 1998, LB 922, § 161; Laws 2008, LB1162, § 5; Laws 2009, LB105, § 18; Laws 2016, LB745, § 14; Laws 2023, LB565, § 27.
Operative date September 2, 2023.

37-453 Permit to hunt deer, antelope, or elk; individual or joint application; ineligibility of individual, when.

Applications for the special permits provided for in section 37-447 or 37-449 shall be made individually or on a unit basis. If such application is made on a unit basis, not more than six applicants may apply for such permit in one application. If such application is granted, such special permits shall be issued to the persons so applying. If any one of the persons so applying shall be ineligible to receive such special permit, the entire group so applying shall be disqualified. No person applying for such special permit on a unit basis shall also apply individually.

Source: Laws 1953, c. 126, § 1, p. 392; Laws 1959, c. 156, § 2, p. 585; Laws 1985, LB 557, § 4; R.S.1943, (1993), § 37-215.02; Laws 1998, LB 922, § 163; Laws 2002, LB 1003, § 22; Laws 2003, LB 305, § 15; Laws 2023, LB565, § 28.
Operative date September 2, 2023.

37-457 Hunting wild turkey; permit required; fee; issuance.

(1) The commission may issue permits for hunting wild turkey and prescribe and establish regulations and limitations for the hunting, transportation, and possession of wild turkey. The commission may offer multiple-year permits or combinations of permits at reduced rates. The number of such permits may be

limited as provided by the regulations of the commission, but the permits shall be disposed of in an impartial manner. Such permits may be issued to allow wild turkey hunting in the Nebraska National Forest and other game reserves and such other areas as the commission may designate whenever the commission deems that permitting such hunting would not be detrimental to the proper preservation of wildlife in such forest, reserves, or areas.

(2) The commission shall, pursuant to section 37-327, establish and charge a fee of not more than thirty-one dollars for residents and not more than one hundred sixty-four dollars for nonresidents for each permit issued under this section except as provided in subsection (5) of this section.

(3) The commission may issue nonresident permits after preference has been given for the issuance of resident permits as provided in rules and regulations adopted and promulgated by the commission. The commission may require a predetermined application period for permit applications in specified management units.

(4) The provisions of section 37-447 for the distribution of deer permits also may apply to the distribution of wild turkey permits. No permit to hunt wild turkey shall be issued without payment of the fee required by this section.

(5) The commission shall, pursuant to section 37-327, establish and charge a fee of not more than twenty-five dollars for residents and not more than forty-five dollars for nonresidents for a youth wild turkey permit.

Source: Laws 1961, c. 172, § 1, p. 513; Laws 1969, c. 292, § 2, p. 1064; Laws 1976, LB 861, § 16; Laws 1993, LB 235, § 17; R.S.1943, (1993), § 37-227; Laws 1998, LB 922, § 167; Laws 1999, LB 176, § 44; Laws 2003, LB 306, § 7; Laws 2005, LB 162, § 19; Laws 2007, LB299, § 11; Laws 2009, LB105, § 22; Laws 2016, LB745, § 15; Laws 2023, LB565, § 29.

Operative date September 2, 2023.

37-492 Commission; rules and regulations; commission orders; limitations upon game breeding and controlled shooting areas.

The commission may adopt and promulgate rules and regulations and pass commission orders for carrying out, administering, and enforcing the provisions of sections 37-484 to 37-496. The commission shall limit the number of areas proposed for licensing so that the total acreage licensed for game breeding and controlled shooting areas in any one county does not exceed five percent of the total acreage of the county in which the areas are sought to be licensed. The commission shall not require distances between boundaries of game breeding and controlled shooting areas to be greater than two miles. No license shall be issued for any area whereon mallard ducks are shot or to be shot if the area lies within three miles of any river or within three miles of any lake with an area exceeding three acres, except that a license may be issued for such area for the shooting of upland game birds only, and the rearing or shooting of mallard ducks thereon is prohibited.

Source: Laws 1957, c. 152, § 10, p. 495; Laws 1969, c. 297, § 3, p. 1071; R.S.1943, (1993), § 37-910; Laws 1998, LB 922, § 202; Laws 2011, LB41, § 22; Laws 2013, LB499, § 9; Laws 2023, LB565, § 30.

Operative date September 2, 2023.

ARTICLE 5
REGULATIONS AND PROHIBITED ACTS

(e) DAMAGE BY WILDLIFE

Section

37-559. Destruction of predators; permit required; when; mountain lion; actions authorized.

(e) DAMAGE BY WILDLIFE

37-559 Destruction of predators; permit required; when; mountain lion; actions authorized.

(1) Any private landowner or tenant may destroy or have destroyed any predator preying on livestock or poultry or suspected of causing other damage on land owned or controlled by such person without a permit issued by the commission. For purposes of this subsection, predator means a badger, bobcat, coyote, gray fox, long-tailed weasel, mink, opossum, raccoon, red fox, or skunk.

(2) Any private landowner or tenant or agent of such person may kill a mountain lion immediately without prior notice to or permission from the commission if such person or agent encounters a mountain lion and the mountain lion is in the process of stalking, killing, or consuming livestock on such person’s property. Such private landowner or tenant or agent shall be responsible for immediately notifying the commission and arranging with the commission to transfer the mountain lion to the commission.

(3) Any person shall be entitled to defend himself or herself or another person without penalty if, in the presence of such person, a mountain lion stalks, attacks, or shows unprovoked aggression toward such person or another person.

(4) This section shall not be construed to allow any private landowner or tenant or agent of such person to destroy or have destroyed species which are protected by the Nongame and Endangered Species Conservation Act or rules and regulations adopted and promulgated under the act, the federal Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 et seq., the federal Fish and Wildlife Coordination Act, as amended, 16 U.S.C. 661 et seq., the federal Bald and Golden Eagle Protection Act, as amended, 16 U.S.C. 668 et seq., the federal Migratory Bird Treaty Act, as amended, 16 U.S.C. 703 et seq., or federal regulations under such federal acts.

Source: Laws 1998, LB 922, § 279; Laws 2010, LB836, § 4; Laws 2023, LB565, § 31.

Operative date September 2, 2023.

Cross References

Nongame and Endangered Species Conservation Act, see section 37-801.

ARTICLE 7
RECREATIONAL LANDS

(a) RESERVES AND SANCTUARIES

Section

37-708. Game refuges; prohibited acts; exceptions.

(a) RESERVES AND SANCTUARIES

37-708 Game refuges; prohibited acts; exceptions.

(1) It shall be unlawful within the boundaries of the state game refuges designated in section 37-706 for any person (a) to hunt or chase with dogs any game birds, game animals, or other birds or animals of any kind or description whatever, (b) to carry firearms of any kind, or (c) from October 15 through January 15 each year to operate a motorboat as defined in section 37-1204.

(2) This section shall not prevent highway or railroad transport of firearms or dogs across the refuge, retrieval of game birds lawfully killed from such refuge, or the taking of fur-bearing animals by the use of traps during lawful open seasons on the refuge.

(3) This section shall not prevent the commission from issuing such permits as may be necessary for the killing of animal or bird predators that may endanger game birds or game animals or the domestic property of adjacent landowners or from issuing permits as provided in sections 37-447 to 37-452 for the taking of deer or elk from such refuges whenever the number of deer or elk on such refuges is deemed detrimental to habitat conditions on the refuges or to adjacent privately owned real or personal property.

(4) This section shall not prevent the owners of land or dwellings or their relatives or invitees from operating any motorboat within the boundaries of the refuge for purposes of access by the most direct route to and from such land or dwellings.

Source: Laws 1939, c. 43, § 3, p. 202; C.S.Supp.,1941, § 37-430; R.S. 1943, § 37-420; Laws 1947, c. 135, § 4, p. 380; Laws 1965, c. 202, § 1, p. 605; Laws 1993, LB 235, § 20; R.S.1943, (1993), § 37-420; Laws 1998, LB 922, § 322; Laws 2023, LB565, § 32. Operative date September 2, 2023.

ARTICLE 18**WATER RECREATION ENHANCEMENT**

Section

37-1804. Water Recreation Enhancement Fund; created; use; investment.

37-1804 Water Recreation Enhancement Fund; created; use; investment.

(1) The Water Recreation Enhancement Fund is created. The fund shall be administered by the Game and Parks Commission. The State Treasurer shall credit to the fund any money transferred to the fund by the Legislature and such donations, gifts, bequests, or other money received from any federal or state agency or public or private source. Except as otherwise provided in subsections (2) and (3) of this section, the fund shall be used for water and recreational projects pursuant to the Water Recreation Enhancement Act. 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. Any investment earnings from investment of money in the fund shall be credited to the fund.

(2) For any amount credited to the fund from a source other than a transfer authorized by the Legislature, the State Treasurer shall transfer an equal amount from the Water Recreation Enhancement Fund to the Jobs and Economic Development Initiative Fund at the end of the fiscal year in which such

funds were credited, on such dates as directed by the budget administrator of the budget division of the Department of Administrative Services to be used pursuant to section 61-405.

(3) Transfers may be made from the investment earnings in the Water Recreation Enhancement Fund to the Panhandle Improvement Project Cash Fund at the direction of the Legislature. The State Treasurer shall transfer one million dollars on July 1, 2023, or as soon thereafter as administratively possible, from the Water Recreation Enhancement Fund to the Panhandle Improvement Project Cash Fund.

Source: Laws 2022, LB1012, § 8; Laws 2023, LB818, § 9.
Effective date May 25, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

Panhandle Improvement Project Cash Fund, see section 81-1213.03.

Water Recreation Enhancement Act, see section 37-1801.

CHAPTER 38

HEALTH OCCUPATIONS AND PROFESSIONS

Article.

1. Uniform Credentialing Act. 38-101 to 38-1,148.
14. Funeral Directing and Embalming Practice Act. 38-1416.
18. Medical Nutrition Therapy Practice Act. 38-1801 to 38-1822.
20. Medicine and Surgery Practice Act. 38-2021.
21. Mental Health Practice Act. 38-2136.
28. Pharmacy Practice Act. 38-2801 to 38-28,102.
44. Behavior Analyst Practice Act. 38-4401 to 38-4414.

ARTICLE 1

UNIFORM CREDENTIALING ACT

Section

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|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 38-101. | Act, how cited. |
| 38-121. | Practices; credential required. |
| 38-129.02. | Credential; additional method of issuance based on reciprocity; eligibility; requirements; applicability. |
| 38-131. | Criminal background check; when required. |
| 38-167. | Boards; designated; change in name; effect. |
| 38-178. | Disciplinary actions; grounds. |
| 38-179. | Disciplinary actions; unprofessional conduct, defined. |
| 38-186. | Credential; discipline; petition by Attorney General; hearing; department; powers and duties. |
| 38-192. | Credential; disciplinary action; director; sanctions; powers. |
| 38-193. | Credential; disciplinary action; partial-birth abortion; violation of Preborn Child Protection Act; director; powers and duties. |
| 38-196. | Credential; disciplinary action; sanctions authorized. |
| 38-1,125. | Credential holder except pharmacist intern and pharmacy technician; incompetent, gross negligent, or unprofessional conduct; impaired or disabled person; duty to report. |
| 38-1,148. | Physician wellness program; participation; record; confidential; exception; disclosure not required, when. |

38-101 Act, how cited.

Sections 38-101 to 38-1,148 and the following practice acts shall be known and may be cited as the Uniform Credentialing Act:

- (1) The Advanced Practice Registered Nurse Practice Act;
- (2) The Alcohol and Drug Counseling Practice Act;
- (3) The Athletic Training Practice Act;
- (4) The Audiology and Speech-Language Pathology Practice Act;
- (5) The Behavior Analyst Practice Act;
- (6) The Certified Nurse Midwifery Practice Act;
- (7) The Certified Registered Nurse Anesthetist Practice Act;
- (8) The Chiropractic Practice Act;
- (9) The Clinical Nurse Specialist Practice Act;

- (10) The Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act;
- (11) The Dentistry Practice Act;
- (12) The Dialysis Patient Care Technician Registration Act;
- (13) The Emergency Medical Services Practice Act;
- (14) The Environmental Health Specialists Practice Act;
- (15) The Funeral Directing and Embalming Practice Act;
- (16) The Genetic Counseling Practice Act;
- (17) The Hearing Instrument Specialists Practice Act;
- (18) The Licensed Practical Nurse-Certified Practice Act until November 1, 2017;
- (19) The Massage Therapy Practice Act;
- (20) The Medical Nutrition Therapy Practice Act;
- (21) The Medical Radiography Practice Act;
- (22) The Medicine and Surgery Practice Act;
- (23) The Mental Health Practice Act;
- (24) The Nurse Practice Act;
- (25) The Nurse Practitioner Practice Act;
- (26) The Nursing Home Administrator Practice Act;
- (27) The Occupational Therapy Practice Act;
- (28) The Optometry Practice Act;
- (29) The Perfusion Practice Act;
- (30) The Pharmacy Practice Act;
- (31) The Physical Therapy Practice Act;
- (32) The Podiatry Practice Act;
- (33) The Psychology Practice Act;
- (34) The Respiratory Care Practice Act;
- (35) The Surgical First Assistant Practice Act; and
- (36) The Veterinary Medicine and Surgery Practice Act.

If there is any conflict between any provision of sections 38-101 to 38-1,148 and any provision of a practice act, the provision of the practice act shall prevail except as otherwise specifically provided in section 38-129.02.

Source: Laws 1927, c. 167, § 1, p. 454; C.S.1929, § 71-101; R.S.1943, § 71-101; Laws 1972, LB 1067, § 1; Laws 1984, LB 481, § 5; Laws 1986, LB 277, § 2; Laws 1986, LB 286, § 23; Laws 1986, LB 355, § 8; Laws 1986, LB 579, § 15; Laws 1986, LB 926, § 1; Laws 1987, LB 473, § 3; Laws 1988, LB 557, § 12; Laws 1988, LB 1100, § 4; Laws 1989, LB 323, § 2; Laws 1989, LB 344, § 4; Laws 1991, LB 456, § 4; Laws 1993, LB 48, § 1; Laws 1993, LB 187, § 3; Laws 1993, LB 429, § 1; Laws 1993, LB 536, § 43; Laws 1993, LB 669, § 2; Laws 1994, LB 900, § 1; Laws 1994, LB 1210, § 9; Laws 1994, LB 1223, § 2; Laws 1995, LB 406, § 10; Laws 1996, LB 1044, § 371; Laws 1997, LB 622, § 77; Laws 1999, LB 178, § 1; Laws 1999, LB 366, § 7; Laws 1999, LB 828, § 7; Laws 2001, LB 25, § 1; Laws 2001, LB 209, § 1; Laws 2001,

LB 270, § 1; Laws 2001, LB 398, § 19; Laws 2002, LB 1021, § 4; Laws 2002, LB 1062, § 11; Laws 2003, LB 242, § 13; Laws 2004, LB 1005, § 8; Laws 2004, LB 1083, § 103; Laws 2005, LB 306, § 1; Laws 2006, LB 994, § 79; R.S.Supp.,2006, § 71-101; Laws 2007, LB236, § 1; Laws 2007, LB247, § 23; Laws 2007, LB247, § 58; Laws 2007, LB296, § 296; Laws 2007, LB463, § 1; Laws 2007, LB481, § 1; Laws 2008, LB928, § 2; Laws 2009, LB195, § 5; Laws 2012, LB831, § 26; Laws 2015, LB264, § 1; Laws 2016, LB721, § 18; Laws 2016, LB750, § 1; Laws 2017, LB88, § 28; Laws 2017, LB255, § 8; Laws 2017, LB417, § 3; Laws 2018, LB701, § 1; Laws 2019, LB29, § 1; Laws 2019, LB112, § 1; Laws 2019, LB556, § 1; Laws 2021, LB148, § 41; Laws 2021, LB390, § 1; Laws 2021, LB583, § 3; Laws 2022, LB752, § 5; Laws 2023, LB227, § 15.

Operative date September 2, 2023.

Cross References

Advanced Practice Registered Nurse Practice Act, see section 38-201.
Alcohol and Drug Counseling Practice Act, see section 38-301.
Athletic Training Practice Act, see section 38-401.
Audiology and Speech-Language Pathology Practice Act, see section 38-501.
Certified Nurse Midwifery Practice Act, see section 38-601.
Certified Registered Nurse Anesthetist Practice Act, see section 38-701.
Chiropractic Practice Act, see section 38-801.
Clinical Nurse Specialist Practice Act, see section 38-901.
Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, see section 38-1001.
Dentistry Practice Act, see section 38-1101.
Dialysis Patient Care Technician Registration Act, see section 38-3701.
Emergency Medical Services Practice Act, see section 38-1201.
Environmental Health Specialists Practice Act, see section 38-1301.
Funeral Directing and Embalming Practice Act, see section 38-1401.
Genetic Counseling Practice Act, see section 38-3401.
Hearing Instrument Specialists Practice Act, see section 38-1501.
Massage Therapy Practice Act, see section 38-1701.
Medical Nutrition Therapy Practice Act, see section 38-1801.
Medical Radiography Practice Act, see section 38-1901.
Medicine and Surgery Practice Act, see section 38-2001.
Mental Health Practice Act, see section 38-2101.
Nurse Practice Act, see section 38-2201.
Nurse Practitioner Practice Act, see section 38-2301.
Nursing Home Administrator Practice Act, see section 38-2401.
Occupational Therapy Practice Act, see section 38-2501.
Optometry Practice Act, see section 38-2601.
Perfusion Practice Act, see section 38-2701.
Pharmacy Practice Act, see section 38-2801.
Physical Therapy Practice Act, see section 38-2901.
Podiatry Practice Act, see section 38-3001.
Psychology Practice Act, see section 38-3101.
Respiratory Care Practice Act, see section 38-3201.
Surgical First Assistant Practice Act, see section 38-3501.
Veterinary Medicine and Surgery Practice Act, see section 38-3301.

38-121 Practices; credential required.

(1) No individual shall engage in the following practices unless such individual has obtained a credential under the Uniform Credentialing Act:

- (a) Acupuncture;
- (b) Advanced practice nursing;
- (c) Alcohol and drug counseling;
- (d) Asbestos abatement, inspection, project design, and training;
- (e) Athletic training;
- (f) Audiology;

- (g) Speech-language pathology;
- (h) Beginning one year after September 2, 2023, behavior analysis;
- (i) Body art;
- (j) Chiropractic;
- (k) Cosmetology;
- (l) Dentistry;
- (m) Dental hygiene;
- (n) Electrology;
- (o) Emergency medical services;
- (p) Esthetics;
- (q) Funeral directing and embalming;
- (r) Genetic counseling;
- (s) Hearing instrument dispensing and fitting;
- (t) Lead-based paint abatement, inspection, project design, and training;
- (u) Licensed practical nurse-certified until November 1, 2017;
- (v) Massage therapy;
- (w) Medical nutrition therapy;
- (x) Medical radiography;
- (y) Medicine and surgery;
- (z) Mental health practice;
- (aa) Nail technology;
- (bb) Nursing;
- (cc) Nursing home administration;
- (dd) Occupational therapy;
- (ee) Optometry;
- (ff) Osteopathy;
- (gg) Perfusion;
- (hh) Pharmacy;
- (ii) Physical therapy;
- (jj) Podiatry;
- (kk) Psychology;
- (ll) Radon detection, measurement, and mitigation;
- (mm) Respiratory care;
- (nn) Surgical assisting; and
- (oo) Veterinary medicine and surgery.

(2) No individual shall hold himself or herself out as any of the following until such individual has obtained a credential under the Uniform Credentialing Act for that purpose:

- (a) Registered environmental health specialist;
- (b) Certified marriage and family therapist;
- (c) Certified professional counselor;
- (d) Social worker; or

(e) Dialysis patient care technician.

(3) No business shall operate for the provision of any of the following services unless such business has obtained a credential under the Uniform Credentialing Act:

- (a) Body art;
- (b) Cosmetology;
- (c) Emergency medical services;
- (d) Esthetics;
- (e) Funeral directing and embalming;
- (f) Massage therapy; or
- (g) Nail technology.

Source: Laws 1927, c. 167, § 2, p. 455; C.S.1929, § 71-201; Laws 1935, c. 142, § 27, p. 529; C.S.Supp.,1941, § 71-201; R.S.1943, § 71-102; Laws 1957, c. 298, § 5, p. 1076; Laws 1961, c. 337, § 3, p. 1051; Laws 1971, LB 587, § 1; Laws 1978, LB 406, § 1; Laws 1980, LB 94, § 2; Laws 1984, LB 481, § 6; Laws 1985, LB 129, § 1; Laws 1986, LB 277, § 3; Laws 1986, LB 286, § 24; Laws 1986, LB 355, § 9; Laws 1986, LB 579, § 16; Laws 1988, LB 557, § 13; Laws 1988, LB 1100, § 5; Laws 1989, LB 342, § 4; Laws 1993, LB 669, § 3; Laws 1995, LB 406, § 11; Laws 1996, LB 1044, § 372; Laws 2001, LB 270, § 2; Laws 2004, LB 1083, § 104; R.S.Supp.,2006, § 71-102; Laws 2007, LB236, § 2; Laws 2007, LB247, § 59; Laws 2007, LB296, § 297; Laws 2007, LB463, § 21; Laws 2009, LB195, § 6; Laws 2012, LB831, § 27; Laws 2016, LB721, § 19; Laws 2017, LB88, § 31; Laws 2017, LB255, § 9; Laws 2021, LB148, § 43; Laws 2023, LB227, § 17.

Operative date September 2, 2023.

38-129.02 Credential; additional method of issuance based on reciprocity; eligibility; requirements; applicability.

(1) This section provides an additional method of issuing a credential based on reciprocity and is supplemental to the methods of credentialing found in the various practice acts within the Uniform Credentialing Act. Any person required to be credentialed under any of the various practice acts who meets the requirements of this section shall be issued a credential subject to the provisions of this section.

(2) A person who has a credential that is current and valid in another state, a territory of the United States, or the District of Columbia may apply to the department for the equivalent credential under the Uniform Credentialing Act. The department, with the recommendation of the board with jurisdiction over the equivalent credential, shall determine the appropriate level of credential for which the applicant qualifies under this section. The department shall determine the documentation required to comply with subsection (3) of this section. The department shall issue the credential if the applicant meets the requirements of subsections (3) and (4) of this section and section 38-129 and submits the appropriate fees for issuance of the credential, including fees for a criminal background check if required for the profession. A credential issued under this section shall not be valid for purposes of an interstate compact or for reciprocity provisions of any practice act under the Uniform Credentialing Act.

(3) The applicant shall provide documentation of the following:

(a) The credential held in the other state, territory, or District of Columbia, the level of such credential, and the profession for which credentialed;

(b) Such credential is valid and current and has been valid for at least one year;

(c) Educational requirements;

(d) The minimum work experience and clinical supervision requirements, if any, required for such credential and verification of the applicant's completion of such requirements;

(e) The passage of an examination for such credential if such passage is required to obtain the credential in the other jurisdiction;

(f) Such credential is not and has not been subject to revocation or any other disciplinary action or voluntarily surrendered while the applicant was under investigation for unprofessional conduct or any other conduct which would be subject to section 38-178 if the conduct occurred in Nebraska;

(g) Such credential has not been subject to disciplinary action. If another jurisdiction has taken disciplinary action against the applicant on any credential the applicant has held, the appropriate board under the Uniform Credentialing Act shall determine if the cause for the disciplinary action was corrected and the matter resolved. If the matter has not been resolved, the applicant is not eligible for a credential under this section until the matter is resolved; and

(h) Receipt of a passing score on a credentialing examination specific to the laws of Nebraska if required by the appropriate board under the Uniform Credentialing Act.

(4) An applicant who obtains a credential upon compliance with subsections (2) and (3) of this section shall establish residency in Nebraska within one hundred eighty days after the issuance of the credential and shall provide proof of residency in a manner and within the time period required by the department. The department shall automatically revoke the credential of any credential holder who fails to comply with this subsection.

(5) In addition to failure to submit the required documentation in subsection (3) of this section, an applicant shall not be eligible for a credential under this section if:

(a) The applicant had a credential revoked, subject to any other disciplinary action, or voluntarily surrendered due to an investigation in any jurisdiction for unprofessional conduct or any other conduct which would be subject to section 38-178 if the conduct occurred in Nebraska;

(b) The applicant has a complaint, allegation, or investigation pending before any jurisdiction that relates to unprofessional conduct or any other conduct which would be subject to section 38-178 if the conduct occurred in Nebraska. If the matter has not been resolved, the applicant is not eligible for a credential under this section until the matter is resolved; or

(c) The person has a disqualifying criminal history as determined by the appropriate board pursuant to the Uniform Credentialing Act and rules and regulations adopted and promulgated under the act.

(6) A person who holds a credential under this section shall be subject to the Uniform Credentialing Act and other laws of this state relating to the person's

practice under the credential and shall be subject to the jurisdiction of the appropriate board.

(7) This section applies to credentials for:

(a) Professions governed by the Advanced Practice Registered Nurse Practice Act, the Behavior Analyst Practice Act, the Certified Nurse Midwifery Practice Act, the Certified Registered Nurse Anesthetist Practice Act, the Clinical Nurse Specialist Practice Act, the Dentistry Practice Act, the Dialysis Patient Care Technician Registration Act, the Emergency Medical Services Practice Act, the Medical Nutrition Therapy Practice Act, the Medical Radiography Practice Act, the Nurse Practitioner Practice Act, the Optometry Practice Act, the Perfusion Practice Act, the Pharmacy Practice Act, the Psychology Practice Act, and the Surgical First Assistant Practice Act; and

(b) Physician assistants and acupuncturists credentialed pursuant to the Medicine and Surgery Practice Act.

Source: Laws 2021, LB390, § 3; Laws 2023, LB227, § 18.
Operative date September 2, 2023.

Cross References

Advanced Practice Registered Nurse Practice Act, see section 38-201.
Behavior Analyst Practice Act, see section 38-4401.
Certified Nurse Midwifery Practice Act, see section 38-601.
Certified Registered Nurse Anesthetist Practice Act, see section 38-701.
Clinical Nurse Specialist Practice Act, see section 38-901.
Dentistry Practice Act, see section 38-1101.
Dialysis Patient Care Technician Registration Act, see section 38-3701.
Emergency Medical Services Practice Act, see section 38-1201.
Medical Nutrition Therapy Practice Act, see section 38-1801.
Medical Radiography Practice Act, see section 38-1901.
Medicine and Surgery Practice Act, see section 38-2001.
Nurse Practitioner Practice Act, see section 38-2301.
Optometry Practice Act, see section 38-2601.
Perfusion Practice Act, see section 38-2701.
Pharmacy Practice Act, see section 38-2801.
Psychology Practice Act, see section 38-3101.
Surgical First Assistant Practice Act, see section 38-3501.

38-131 Criminal background check; when required.

(1) An applicant for an initial license to practice as a registered nurse, a licensed practical nurse, a physical therapist, a physical therapy assistant, a psychologist, an advanced emergency medical technician, an emergency medical technician, an audiologist, a speech-language pathologist, a licensed independent mental health practitioner, an occupational therapist, an occupational therapy assistant, or a paramedic or to practice a profession which is authorized to prescribe controlled substances shall be subject to a criminal background check. Except as provided in subsection (4) of this section, such an applicant for an initial license shall submit a full set of fingerprints to the Nebraska State Patrol for a criminal history record information check. The applicant shall authorize release of the results of the national criminal history record information check by the Federal Bureau of Investigation to the department. The applicant shall pay the actual cost of the fingerprinting and criminal background check.

(2) The Nebraska State Patrol is authorized to submit the fingerprints of such applicants to the Federal Bureau of Investigation and to issue a report to the department that includes the criminal history record information concerning the applicant. The Nebraska State Patrol shall forward submitted fingerprints to the Federal Bureau of Investigation for a national criminal history record

information check. The Nebraska State Patrol shall issue a report to the department that includes the criminal history record information concerning the applicant.

(3) This section shall not apply to a dentist who is an applicant for a dental locum tenens under section 38-1122, to a physician or osteopathic physician who is an applicant for a physician locum tenens under section 38-2036, or to a veterinarian who is an applicant for a veterinarian locum tenens under section 38-3335.

(4) An applicant for a temporary educational permit as defined in section 38-2019 shall have ninety days from the issuance of the permit to comply with subsection (1) of this section and shall have such permit suspended after such ninety-day period if the criminal background check is not complete or revoked if the criminal background check reveals that the applicant was not qualified for the permit.

(5) The department and the Nebraska State Patrol may adopt and promulgate rules and regulations concerning costs associated with the fingerprinting and the national criminal history record information check.

(6) For purposes of interpretation by the Federal Bureau of Investigation, the term department in this section means the Division of Public Health of the Department of Health and Human Services.

Source: Laws 2005, LB 306, § 2; Laws 2005, LB 382, § 15; Laws 2006, LB 833, § 1; R.S.Supp.,2006, § 71-104.01; Laws 2007, LB247, § 60; Laws 2007, LB463, § 31; Laws 2007, LB481, § 2; Laws 2011, LB687, § 1; Laws 2015, LB129, § 1; Laws 2018, LB731, § 1; Laws 2018, LB1034, § 5; Laws 2022, LB752, § 7; Laws 2023, LB227, § 19.

Operative date June 7, 2023.

38-167 Boards; designated; change in name; effect.

- (1) Boards shall be designated as follows:
- (a) Board of Advanced Practice Registered Nurses;
 - (b) Board of Alcohol and Drug Counseling;
 - (c) Board of Athletic Training;
 - (d) Board of Audiology and Speech-Language Pathology;
 - (e) Board of Behavior Analysts;
 - (f) Board of Chiropractic;
 - (g) Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art;
 - (h) Board of Dentistry;
 - (i) Board of Emergency Medical Services;
 - (j) Board of Registered Environmental Health Specialists;
 - (k) Board of Funeral Directing and Embalming;
 - (l) Board of Hearing Instrument Specialists;
 - (m) Board of Massage Therapy;
 - (n) Board of Medical Nutrition Therapy;
 - (o) Board of Medical Radiography;

- (p) Board of Medicine and Surgery;
- (q) Board of Mental Health Practice;
- (r) Board of Nursing;
- (s) Board of Nursing Home Administration;
- (t) Board of Occupational Therapy Practice;
- (u) Board of Optometry;
- (v) Board of Pharmacy;
- (w) Board of Physical Therapy;
- (x) Board of Podiatry;
- (y) Board of Psychology;
- (z) Board of Respiratory Care Practice; and
- (aa) Board of Veterinary Medicine and Surgery.

(2) Any change made by the Legislature of the names of boards listed in this section shall not change the membership of such boards or affect the validity of any action taken by or the status of any action pending before any of such boards. Any such board newly named by the Legislature shall be the direct and only successor to the board as previously named.

Source: Laws 1927, c. 167, § 12, p. 457; C.S.1929, § 71-302; Laws 1935, c. 142, § 30, p. 530; C.S.Supp.,1941, § 71-302; Laws 1943, c. 150, § 4, p. 540; R.S.1943, § 71-112; Laws 1957, c. 298, § 8, p. 1078; Laws 1961, c. 337, § 6, p. 1053; Laws 1978, LB 406, § 4; Laws 1979, LB 427, § 5; Laws 1981, LB 451, § 3; Laws 1984, LB 481, § 9; Laws 1985, LB 129, § 5; Laws 1986, LB 277, § 5; Laws 1986, LB 286, § 32; Laws 1986, LB 355, § 11; Laws 1986, LB 579, § 24; Laws 1988, LB 557, § 16; Laws 1988, LB 1100, § 8; Laws 1989, LB 342, § 8; Laws 1993, LB 187, § 5; Laws 1993, LB 669, § 6; Laws 1995, LB 406, § 14; Laws 1999, LB 828, § 14; Laws 2000, LB 833, § 1; Laws 2001, LB 270, § 5; Laws 2002, LB 1021, § 7; Laws 2004, LB 1083, § 107; R.S.Supp.,2006, § 71-112; Laws 2007, LB236, § 5; Laws 2007, LB463, § 67; Laws 2009, LB195, § 7; Laws 2021, LB148, § 48; Laws 2023, LB227, § 20. Operative date September 2, 2023.

38-178 Disciplinary actions; grounds.

Except as otherwise provided in sections 38-1,119 to 38-1,123, a credential to practice a profession may be issued subject to discipline, denied, refused renewal, or have other disciplinary measures taken against it in accordance with section 38-183, 38-185, or 38-186 on any of the following grounds:

- (1) Misrepresentation of material facts in procuring or attempting to procure a credential;
- (2) Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
- (3) Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
- (4) Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to section 38-175;

(5) Conviction of (a) a misdemeanor or felony under Nebraska law or federal law, or (b) a crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;

(6) Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with gross incompetence or gross negligence, or (d) in a pattern of incompetent or negligent conduct;

(7) Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;

(8) Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;

(9) Illness, deterioration, or disability that impairs the ability to practice the profession;

(10) Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;

(11) Performing or offering to perform scleral tattooing as defined in section 38-10,172 by a person not credentialed to do so;

(12) Having had his or her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to section 38-196 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this section;

(13) Use of untruthful, deceptive, or misleading statements in advertisements, including failure to comply with section 38-124;

(14) Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;

(15) Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;

(16) Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;

(17) Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;

(18) Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;

(19) Failure to file a report required by section 38-1,124, 38-1,125, or 71-552;

(20) Failure to maintain the requirements necessary to obtain a credential;

(21) Violation of an order issued by the department;

(22) Violation of an assurance of compliance entered into under section 38-1,108;

(23) Failure to pay an administrative penalty;

(24) Unprofessional conduct as defined in section 38-179;

(25) Violation of the Automated Medication Systems Act;

(26) Failure to comply with section 38-1,147; or

(27) Violation of the Preborn Child Protection Act.

Source: Laws 1927, c. 167, § 46, p. 466; C.S.1929, § 71-601; Laws 1943, c. 150, § 10, p. 541; R.S.1943, § 71-147; Laws 1976, LB 877, § 1; Laws 1979, LB 95, § 1; Laws 1986, LB 286, § 45; Laws 1986, LB 579, § 37; Laws 1986, LB 926, § 24; Laws 1987, LB 473, § 15; Laws 1988, LB 1100, § 16; Laws 1991, LB 456, § 7; Laws 1992, LB 1019, § 37; Laws 1993, LB 536, § 44; Laws 1994, LB 1210, § 25; Laws 1994, LB 1223, § 6; Laws 1997, LB 622, § 79; Laws 1999, LB 366, § 8; Laws 2001, LB 398, § 20; Laws 2005, LB 301, § 9; R.S.Supp.,2006, § 71-147; Laws 2007, LB463, § 78; Laws 2008, LB308, § 10; Laws 2011, LB591, § 2; Laws 2015, LB452, § 2; Laws 2019, LB449, § 1; Laws 2022, LB752, § 8; Laws 2023, LB574, § 7.

Operative date May 23, 2023.

Cross References

Automated Medication Systems Act, see section 71-2444.

Preborn Child Protection Act, see section 71-6912.

Uniform Controlled Substances Act, see section 28-401.01.

Uniform Deceptive Trade Practices Act, see section 87-306.

38-179 Disciplinary actions; unprofessional conduct, defined.

For purposes of section 38-178, unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including, but not limited to:

- (1) Receipt of fees on the assurance that an incurable disease can be permanently cured;
- (2) Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than (a) with a partner or employee of the applicant or credential holder or his or her office or clinic, (b) with a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts, or (c) with a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement;
- (3) Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
- (4) Cheating on or attempting to subvert the credentialing examination;
- (5) Assisting in the care or treatment of a consumer without the consent of such consumer or his or her legal representative;
- (6) Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that such person is entitled to practice a profession for which he or she is not credentialed;
- (7) Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;
- (8) Knowingly disclosing confidential information except as otherwise permitted by law;

- (9) Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
- (10) Failure to keep and maintain adequate records of treatment or service;
- (11) Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;
- (12) Prescribing any controlled substance to (a) oneself or (b) except in the case of a medical emergency (i) one's spouse, (ii) one's child, (iii) one's parent, (iv) one's sibling, or (v) any other person living in the same household as the prescriber;
- (13) Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
- (14) Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with such care;
- (15) Violation of the Preborn Child Protection Act;
- (16) Beginning October 1, 2023, performing gender-altering procedures for an individual younger than nineteen years of age in violation of section 71-7304; and
- (17) Such other acts as may be defined in rules and regulations.

Nothing in this section shall be construed to exclude determination of additional conduct that is unprofessional by adjudication in individual contested cases.

Source: Laws 1927, c. 167, § 47, p. 466; C.S.1929, § 71-602; Laws 1935, c. 141, § 1, p. 518; C.S.Supp.,1941, § 71-602; Laws 1943, c. 146, § 11, p. 542; R.S.1943, § 71-148; Laws 1979, LB 95, § 2; Laws 1981, LB 466, § 1; Laws 1986, LB 286, § 46; Laws 1986, LB 579, § 38; Laws 1986, LB 926, § 25; Laws 1987, LB 473, § 16; Laws 1988, LB 273, § 9; Laws 1988, LB 1100, § 17; Laws 1991, LB 425, § 11; Laws 1991, LB 456, § 11; Laws 1993, LB 536, § 45; Laws 1994, LB 1210, § 27; Laws 1997, LB 23, § 5; R.S.1943, (2003), § 71-148; Laws 2007, LB463, § 79; Laws 2021, LB148, § 49; Laws 2023, LB574, § 8.
Operative date May 23, 2023.

Cross References

Preborn Child Protection Act, see section 71-6912.

38-186 Credential; discipline; petition by Attorney General; hearing; department; powers and duties.

- (1) A petition shall be filed by the Attorney General in order for the director to discipline a credential obtained under the Uniform Credentialing Act to:
 - (a) Practice or represent oneself as being certified under any of the practice acts enumerated in section 38-101 other than subdivision (21) of section 38-101; or
 - (b) Operate as a business for the provision of services in body art; cosmetology; emergency medical services; esthetics; funeral directing and embalming; massage therapy; and nail technology in accordance with subsection (3) of section 38-121.

(2) The petition shall be filed in the office of the director. The department may withhold a petition for discipline or a final decision from public access for a period of five days from the date of filing the petition or the date the decision is entered or until service is made, whichever is earliest.

(3) The proceeding shall be summary in its nature and triable as an equity action and shall be heard by the director or by a hearing officer designated by the director under rules and regulations of the department. Affidavits may be received in evidence in the discretion of the director or hearing officer. The department shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district courts of the state. Depositions may be used by either party.

Source: Laws 2007, LB463, § 86; Laws 2012, LB831, § 28; Laws 2017, LB88, § 34; Laws 2017, LB255, § 10; Laws 2023, LB227, § 21.
Operative date September 2, 2023.

38-192 Credential; disciplinary action; director; sanctions; powers.

(1) If the director determines upon completion of a hearing under section 38-183 or 38-186 that a violation has occurred, the director may, at his or her discretion, consult with the appropriate board concerning sanctions to be imposed or terms and conditions of the sanctions. When the director consults with a board, the credential holder and the Attorney General shall be provided with a copy of the director's request, the recommendation of the board, and an opportunity to respond in such manner as the director determines.

(2) Except as provided in subsection (3) of this section, the director shall have the authority through entry of an order to exercise in his or her discretion any or all of the sanctions authorized under subsection (1) of section 38-196.

(3) If the director determines upon completion of a hearing under section 38-183 or 38-186 that a licensee has performed or induced an unlawful abortion in violation of section 71-6915, the director shall enter an order imposing a sanction authorized under subsection (2) of section 38-196.

Source: Laws 2007, LB463, § 92; Laws 2023, LB574, § 9.
Operative date May 23, 2023.

38-193 Credential; disciplinary action; partial-birth abortion; violation of Preborn Child Protection Act; director; powers and duties.

(1) If the petition is brought with respect to subdivision (3) of section 38-2021, the director shall make findings as to whether the licensee's conduct was necessary to save the life of a mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. The director shall have the authority through entry of an order to exercise in his or her discretion any or all of the sanctions authorized under section 38-196, irrespective of the petition.

(2) If the petition is brought with respect to subdivision (5) of section 38-2021, the director shall make findings as to whether the licensee performed or induced an unlawful abortion in violation of section 71-6915. If the director finds such a violation, the director shall enter an order revoking the licensee's

credential to practice pursuant to the Uniform Credentialing Act in the State of Nebraska in accordance with subsection (2) of section 38-196 and section 38-1,100.

Source: Laws 2007, LB463, § 93; Laws 2023, LB574, § 10.
Operative date May 23, 2023.

38-196 Credential; disciplinary action; sanctions authorized.

(1) Except as provided in subsection (2) of this section, upon the completion of any hearing held regarding discipline of a credential, the director may dismiss the action or impose any of the following sanctions:

- (a) Censure;
- (b) Probation;
- (c) Limitation;
- (d) Civil penalty;
- (e) Suspension; or
- (f) Revocation.

(2) Upon completion of any hearing regarding discipline of a credential for performing or inducing an unlawful abortion in violation of section 71-6915, if the director determines that such violation occurred, the director shall impose a sanction of revocation in accordance with section 38-1,100.

Source: Laws 1927, c. 167, § 54, p. 468; C.S.1929, § 71-609; Laws 1943, c. 150, § 13, p. 544; R.S.1943, § 71-155; Laws 1976, LB 877, § 3; Laws 1984, LB 481, § 20; Laws 1986, LB 286, § 52; Laws 1986, LB 579, § 44; Laws 1986, LB 926, § 28; Laws 1988, LB 1100, § 20; Laws 1991, LB 456, § 14; Laws 1994, LB 1210, § 33; Laws 1994, LB 1223, § 7; Laws 1996, LB 1044, § 384; Laws 1997, LB 23, § 6; Laws 1999, LB 828, § 43; R.S.1943, (2003), § 71-155; Laws 2007, LB296, § 307; Laws 2007, LB463, § 96; Laws 2023, LB574, § 11.
Operative date May 23, 2023.

38-1,125 Credential holder except pharmacist intern and pharmacy technician; incompetent, gross negligent, or unprofessional conduct; impaired or disabled person; duty to report.

(1) Except as otherwise provided in section 38-2897, every credential holder shall, within thirty days of an occurrence described in this subsection, report to the department in such manner and form as the department may require whenever he or she:

- (a) Has first-hand knowledge of facts giving him or her reason to believe that any person in his or her profession:
 - (i) Has acted with gross incompetence or gross negligence;
 - (ii) Has engaged in a pattern of incompetent or negligent conduct as defined in section 38-177;
 - (iii) Has engaged in unprofessional conduct as defined in section 38-179;
 - (iv) Has been practicing while his or her ability to practice is impaired by alcohol, controlled substances, mind-altering substances, or physical, mental, or emotional disability; or

(v) Has otherwise violated the regulatory provisions governing the practice of the profession;

(b) Has first-hand knowledge of facts giving him or her reason to believe that any person in another profession:

(i) Has acted with gross incompetence or gross negligence; or

(ii) Has been practicing while his or her ability to practice is impaired by alcohol, controlled substances, mind-altering substances, or physical, mental, or emotional disability; or

(c) Has been the subject of any of the following actions:

(i) Loss of privileges in a hospital or other health care facility due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment or the voluntary limitation of privileges or resignation from the staff of any health care facility when that occurred while under formal or informal investigation or evaluation by the facility or a committee of the facility for issues of clinical competence, unprofessional conduct, or physical, mental, or chemical impairment;

(ii) Loss of employment due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment;

(iii) An adverse judgment, settlement, or award arising out of a professional liability claim, including a settlement made prior to suit in which the consumer releases any professional liability claim against the credentialed person, or adverse action by an insurance company affecting professional liability coverage. The department may define what constitutes a settlement that would be reportable when a credential holder refunds or reduces a fee or makes no charge for reasons related to a consumer complaint other than costs;

(iv) Denial of a credential or other form of authorization to practice by any jurisdiction due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment;

(v) Disciplinary action against any credential or other form of permit he or she holds taken by any jurisdiction, the settlement of such action, or any voluntary surrender of or limitation on any such credential or other form of permit;

(vi) Loss of membership in, or discipline of a credential related to the applicable profession by, a professional organization due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment; or

(vii) Conviction of any misdemeanor or felony in this or any other jurisdiction.

(2) The requirement to file a report under subdivision (1)(a) or (b) of this section shall not apply:

(a) To the spouse of the credential holder;

(b) To a practitioner who is providing treatment to such credential holder in a practitioner-consumer relationship concerning information obtained or discovered in the course of treatment unless the treating practitioner determines that the condition of the credential holder may be of a nature which constitutes a danger to the public health and safety by the credential holder's continued practice;

(c) When a credential holder who is chemically impaired enters the Licensee Assistance Program authorized by section 38-175 except as otherwise provided in such section; or

(d) To a credential holder who is providing coaching, training, or mentoring services to another credential holder through a physician wellness program as defined in section 38-1,148 except as otherwise provided in section 38-1,148.

(3) A report submitted by a professional liability insurance company on behalf of a credential holder within the thirty-day period prescribed in subsection (1) of this section shall be sufficient to satisfy the credential holder's reporting requirement under subsection (1) of this section.

Source: Laws 2007, LB247, § 61; Laws 2007, LB463, § 125; Laws 2017, LB166, § 8; Laws 2023, LB227, § 22.
Operative date September 2, 2023.

38-1,148 Physician wellness program; participation; record; confidential; exception; disclosure not required, when.

(1) For purposes of this section:

(a) Physician peer coach means any health care provider licensed to practice medicine or surgery who provides coaching, training, or mentoring through a physician wellness program to another health care provider licensed to practice medicine or surgery under the Uniform Credentialing Act or to a student of an accredited school or college of medicine; and

(b) Physician wellness program means a program that (i) provides coaching, training, and mentoring services by physician peer coaches or coaches certified by a nationally recognized credentialing program for coach practitioners for the purpose of addressing issues related to career fatigue and wellness for individuals licensed to practice medicine and surgery under the Uniform Credentialing Act and students of an accredited school or college of medicine and (ii) is established, organized, or contracted by any statewide association exempt from taxation under section 501(c)(6) of the Internal Revenue Code of 1986 that primarily represents health care providers in multiple specialties who are licensed to practice medicine and surgery under the Uniform Credentialing Act. A physician wellness program does not include a program of evaluation, monitoring, treatment, or referral.

(2) Any record of a person's participation in a physician wellness program is confidential and not subject to discovery, subpoena, or a reporting requirement to the department unless the person voluntarily requests release of the information in writing or the physician peer coach determines that the person's condition constitutes a danger to the public health and safety by the person's continued practice of medicine or surgery.

(3) A person who contacts or participates in a physician wellness program shall not be required to disclose such contact or participation to any health care facility, hospital, medical staff person, accreditation organization, graduate medical education oversight body, health insurer, government agency, or other entity as a condition of participation, employment, credentialing, payment, licensure, compliance, or other requirement.

Source: Laws 2023, LB227, § 16.
Operative date September 2, 2023.

ARTICLE 14

FUNERAL DIRECTING AND EMBALMING PRACTICE ACT

Section
38-1416. Apprenticeship; apprentice license; examination.

38-1416 Apprenticeship; apprentice license; examination.

(1) Before beginning an apprenticeship, an applicant shall apply for an apprentice license. The applicant shall show that he or she has completed twenty of the forty hours required in subdivision (1)(a) of section 38-1414. The applicant may complete the twelve-month apprenticeship in either a split apprenticeship or a full apprenticeship as provided in this section.

(2) A split apprenticeship shall be completed in the following manner:

(a) Application for an apprentice license to complete a six-month apprenticeship prior to or while attending an accredited school of mortuary science, which license shall be valid for six months from the date of issuance and shall not be extended by the board. The apprenticeship shall be completed over a continuous six-month period;

(b) Successful completion of a full course of study in an accredited school of mortuary science;

(c) Successful passage of the national standardized examination; and

(d) Application for an apprentice license to complete the final six-month apprenticeship, which license shall be valid for six months from the date of issuance and shall not be extended by the board. The apprenticeship shall be completed over a continuous six-month period.

(3) A full apprenticeship shall be completed in the following manner:

(a) Successful completion of a full course of study in an accredited school of mortuary science;

(b) Successful passage of the national standardized examination; and

(c) Application for an apprentice license to complete a twelve-month apprenticeship. This license shall be valid for twelve months from the date of issuance and shall not be extended by the board. The apprenticeship shall be completed over a continuous twelve-month period.

(4) An individual registered as an apprentice on December 1, 2008, shall be deemed to be licensed as an apprentice for the term of the apprenticeship on such date.

Source: Laws 1927, c. 167, § 96, p. 481; C.S.1929, § 71-1305; Laws 1931, c. 123, § 1, p. 357; Laws 1937, c. 155, § 3, p. 613; C.S.Supp.,1941, § 71-1305; R.S.1943, § 71-198; Laws 1986, LB 926, § 44; Laws 1987, LB 473, § 20; Laws 1988, LB 1100, § 36; R.S.1943, (1990), § 71-198; Laws 1993, LB 187, § 16; Laws 2003, LB 242, § 97; R.S.1943, (2003), § 71-1304; Laws 2007, LB463, § 552; Laws 2022, LB704, § 2; Laws 2023, LB227, § 23.
Operative date September 2, 2023.

Cross References

Credentialing, general requirements and issuance procedures, see section 38-121 et seq.

ARTICLE 18

MEDICAL NUTRITION THERAPY PRACTICE ACT

Section

- 38-1801. Act, how cited.
 38-1802. Legislative findings.
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 38-1804. Repealed. Laws 2023, LB227, § 121.
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 38-1809.02. Nutrition counseling, defined.
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 38-1810.01. Practice of dietetics and nutrition, defined.
 38-1810.02. Primary care practitioner, defined.
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 38-1816. Act, how construed; assisted-living facilities or nursing facilities; provision of medical nutrition therapy.
 38-1817. Licensed nutritionist; eligibility; qualifications.
 38-1818. Appropriate supervision; requirements.
 38-1819. Temporary license.
 38-1820. Medical nutrition therapy; authorized; use of titles, abbreviations, words; limitations.
 38-1821. Licensed dietitian nutritionist; licensed nutritionist; practice requirements; authorized activities; limitations.
 38-1822. Student; accredited course on dietetics and nutrition; practice; limitations.

38-1801 Act, how cited.

Sections 38-1801 to 38-1822 shall be known and may be cited as the Medical Nutrition Therapy Practice Act.

Source: Laws 2007, LB463, § 623; Laws 2023, LB227, § 24.
 Operative date September 2, 2023.

38-1802 Legislative findings.

(1) The Legislature finds that:

(a) The unregulated practice of medical nutrition therapy can clearly harm or endanger the health, safety, and welfare of the public;

(b) The public can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(c) The public cannot be effectively protected by a less cost-effective means than state regulation of the practice of medical nutrition therapy. The Legislature also finds that dietitians and nutritionists must exercise independent

judgment and that professional education, training, and experience are required to make such judgment.

(2) The Legislature further finds that the practice of medical nutrition therapy in the State of Nebraska is not sufficiently regulated for the protection of the health, safety, and welfare of the public. It declares that this is a matter of statewide concern and it shall be the policy of the State of Nebraska to promote high standards of professional performance by those persons representing themselves as licensed dietitian nutritionists and licensed nutritionists.

Source: Laws 1988, LB 557, § 1; Laws 1995, LB 406, § 20; R.S.1943, (2003), § 71-1,285; Laws 2007, LB463, § 624; Laws 2023, LB227, § 25.

Operative date September 2, 2023.

38-1803 Definitions, where found.

For purposes of the Medical Nutrition Therapy Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-1803.01 to 38-1810.05 apply.

Source: Laws 1988, LB 557, § 2; Laws 1995, LB 406, § 21; Laws 1999, LB 828, § 146; R.S.1943, (2003), § 71-1,286; Laws 2007, LB463, § 625; Laws 2023, LB227, § 26.

Operative date September 2, 2023.

38-1803.01 Appropriate supervision, defined.

Appropriate supervision means the specific type, intensity, and frequency of supervision determined by an assessment of a combination of factors, which include discipline, level of education and experience of the supervisee, and assigned level of responsibility.

Source: Laws 2023, LB227, § 27.

Operative date September 2, 2023.

38-1804 Repealed. Laws 2023, LB227, § 121.

Operative date September 2, 2023.

38-1806 Consultation, defined.

Consultation means conferring with a physician, nurse practitioner, or physician assistant regarding the provision of medical nutrition therapy. In the inpatient setting, consultation may be satisfied by practicing under clinical privileges or following facility-established protocols. In the outpatient setting, consultation may be satisfied by conferring with a consulting physician or the referring primary care practitioner or physician of the patient.

Source: Laws 2007, LB463, § 628; Laws 2023, LB227, § 28.

Operative date September 2, 2023.

38-1807 General nonmedical nutrition information, defined.

General nonmedical nutrition information means information on any of the following:

- (1) Principles of good nutrition and food preparation;
- (2) Food that should be included in the normal diet;
- (3) Essential nutrients needed by the human body;

- (4) Recommended amounts of essential nutrients required by the human body;
- (5) Actions of nutrients in the human body; and
- (6) Food and supplements that are good sources of essential nutrients required by the human body.

Source: Laws 2007, LB463, § 629; Laws 2023, LB227, § 29.
Operative date September 2, 2023.

38-1807.01 General supervision for the purpose of post-degree clinical practice experience, defined.

General supervision for the purpose of post-degree clinical practice experience means the qualified supervisor is onsite and present at the location where nutrition-care services are provided or is immediately available by means of electronic communications to the supervisee providing the services and both maintains continued involvement in the appropriate aspects of patient care and has primary responsibility for all nutrition-care services rendered by the supervisee.

Source: Laws 2023, LB227, § 30.
Operative date September 2, 2023.

38-1808 Licensed dietitian nutritionist, defined.

Licensed dietitian nutritionist means a person who is licensed to practice medical nutrition therapy pursuant to the Uniform Credentialing Act and who holds a current license issued by the department pursuant to section 38-1813.

Source: Laws 2007, LB463, § 630; Laws 2023, LB227, § 31.
Operative date September 2, 2023.

38-1808.01 Licensed nutritionist, defined.

Licensed nutritionist means a person who is licensed to practice medical nutrition therapy pursuant to the Uniform Credentialing Act and who holds a current license issued by the department pursuant to section 38-1817.

Source: Laws 2023, LB227, § 32.
Operative date September 2, 2023.

38-1809 Medical nutrition therapy, defined.

Medical nutrition therapy means the assessment of the nutritional status of patients and the provision of the following nutrition-care services for the treatment or management of a disease or medical condition by:

- (1) Assessing and evaluating the nutritional needs of people and groups and determining resources and constraints in the practice setting, including ordering laboratory tests to check and track nutrition status, creating dietary plans and orders, and monitoring the effectiveness of such plans and orders;
- (2) Establishing priorities, goals, and objectives that meet nutritional needs and are consistent with available resources and constraints;
- (3) Providing nutrition counseling; and

(4) Ordering therapeutic diets.

Source: Laws 2007, LB463, § 631; Laws 2023, LB227, § 33.
Operative date September 2, 2023.

38-1809.01 Nutrition-care services, defined.

Nutrition-care services means any or all of the following services provided within a systematic process:

- (1) Assessing and evaluating the nutritional needs of people and groups and determining resources and constraints in the practice setting, including ordering laboratory tests to check and track nutrition status, creating dietary plans and orders, and monitoring the effectiveness of such plans and orders;
- (2) Establishing priorities, goals, and objectives that meet nutritional needs and are consistent with available resources and constraints;
- (3) Providing nutrition counseling, including in health and disease;
- (4) Developing, implementing, and managing nutrition-care systems;
- (5) Evaluating, changing, and maintaining appropriate standards of quality in food and nutrition services; and
- (6) Ordering therapeutic diets.

Source: Laws 2023, LB227, § 34.
Operative date September 2, 2023.

38-1809.02 Nutrition counseling, defined.

Nutrition counseling means a supportive process, characterized by a collaborative counselor-patient or counselor-client relationship with individuals or groups, to establish food and nutrition priorities, goals, and individualized action plans and general physical activity guidance that acknowledge and foster responsibility for self-care to treat or manage an existing disease or medical condition or to promote health and wellness.

Source: Laws 2023, LB227, § 35.
Operative date September 2, 2023.

38-1810 Patient, defined.

Patient means an individual recipient of medical nutrition therapy, whether in the outpatient or inpatient setting.

Source: Laws 2007, LB463, § 632; Laws 2023, LB227, § 41.
Operative date September 2, 2023.

38-1810.01 Practice of dietetics and nutrition, defined.

Practice of dietetics and nutrition means the integration and application of scientific principles derived from the study of food, nutrition, biochemistry, metabolism, nutrigenomics, physiology, food management, and behavioral and social sciences in achieving and maintaining health throughout the life span and in providing nutrition care in person or by telehealth, including medical nutrition therapy, for the purpose of disease management and prevention, or to treat or rehabilitate an illness, injury, or condition. The primary functions of the practice of dietetics and nutrition are the provision of medical nutrition therapy for the purpose of disease management or to treat or rehabilitate an illness,

injury, or condition and the provision of other nutrition-care services for health and wellness and as primary prevention of chronic disease.

Source: Laws 2023, LB227, § 36.

Operative date September 2, 2023.

38-1810.02 Primary care practitioner, defined.

Primary care practitioner means a physician licensed pursuant to section 38-2026 or sections 38-2029 to 38-2033 who provides primary care services, a nurse practitioner licensed pursuant to section 38-2317 who provides primary care services, or a physician assistant licensed pursuant to section 38-2049 who provides primary care services under a collaborative agreement with the supervision of a physician.

Source: Laws 2023, LB227, § 37.

Operative date September 2, 2023.

38-1810.03 Qualified supervisor, defined; qualifications; licensure; required, when.

(1) Qualified supervisor means:

(a) When supervising the provision of medical nutrition therapy by a person who is completing post-degree clinical practice experience, a person who either:

(i) Is a licensed dietitian nutritionist, a licensed nutritionist, or a health care provider licensed in any state or territory, including licensed or certified dietitian nutritionists and licensed nutritionists, whose scope of practice includes the provision of medical nutrition therapy; or

(ii) In the case of a person in a state that does not provide for such licensure or certification, meets such other criteria as the board may establish, including by a registered dietitian nutritionist or a certified nutrition specialist, or is a health care provider authorized in another state or territory to provide medical nutrition therapy; and

(b) When supervising the provision of nutrition-care services that does not constitute medical nutrition therapy, a person who:

(i) Meets the qualifications of subdivision (1)(a) of this section; or

(ii) Has worked in the field of clinical nutrition for at least three of the last five years immediately preceding commencement of the applicant's supervised practice experience and holds a master's or doctoral degree with a major course of study in dietetics, human nutrition, foods and nutrition, clinical nutrition, applied clinical nutrition, community nutrition, public health nutrition, naturopathic medicine, nutrition education, nutrition counseling, nutrition science, nutrition and functional medicine, nutritional biochemistry, or nutrition and integrative health, or an equivalent course of study as approved by the board.

(2) In order to qualify as a qualified supervisor in Nebraska, a supervisor obtaining a doctoral degree outside the United States or its territories shall have such degree validated by the board as equivalent to the doctoral degree conferred by an accredited college or university in the United States or its territories.

(3) A qualified supervisor shall be licensed under the Uniform Credentialing Act to provide medical nutrition therapy if supervising an applicant providing medical nutrition therapy to a person in this state.

Source: Laws 2023, LB227, § 38.

Operative date September 2, 2023.

38-1810.04 Registered dietitian or registered dietitian nutritionist, defined.

Registered dietitian or registered dietitian nutritionist means a person who is currently registered as a registered dietitian or a registered dietitian nutritionist by the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics or a similar successor entity approved by the department.

Source: Laws 2023, LB227, § 39.

Operative date September 2, 2023.

38-1810.05 Therapeutic diet, defined.

Therapeutic diet means a diet intervention prescribed by a physician or other health care professional that provides food or nutrients via oral, enteral, or parenteral routes as part of the treatment of a disease or diagnosed clinical condition to modify, eliminate, decrease, or increase identified micronutrients or macronutrients in the diet or to provide mechanically altered food when indicated.

Source: Laws 2023, LB227, § 40.

Operative date September 2, 2023.

38-1811 Board; membership; qualifications.

(1) The board shall consist of three professional members, one physician, and one public member appointed pursuant to section 38-158 until December 1, 2023.

(2) Beginning on December 1, 2023, the board shall consist of five members as follows: Three professional members, of which one shall be a licensed nutritionist or a licensed dietitian nutritionist and two shall be licensed dietitian nutritionists; one physician; and one public member.

(3) The members shall meet the requirements of sections 38-164 and 38-165.

Source: Laws 2007, LB463, § 633; Laws 2023, LB227, § 42.

Operative date September 2, 2023.

38-1812 License required; consultation required for practice; activities not subject to licensure.

No person shall practice medical nutrition therapy unless licensed for such purpose pursuant to the Uniform Credentialing Act. The practice of medical nutrition therapy shall be provided with the consultation of a physician licensed pursuant to section 38-2026 or sections 38-2029 to 38-2033, a nurse practitioner licensed pursuant to section 38-2317, or a physician assistant licensed pursuant to section 38-2049. The Medical Nutrition Therapy Practice Act shall not be construed to require a license under the act in order to:

(1) Practice medical nutrition therapy within the scope of the official duties of an employee of the state or federal government or while serving in the armed forces of the United States;

(2) Engage in practice within the scope of a credential issued under the Uniform Credentialing Act;

(3) Practice medical nutrition therapy as a student while pursuing a course of study leading to a degree in dietetics, nutrition, or an equivalent major course of study from an accredited school or program as part of a supervised course of study, if all of the following apply: (a) The person is not engaged in the unrestricted practice of medical nutrition therapy; (b) the person uses a title clearly indicating the person's status as a student or trainee; and (c) the person is in compliance with appropriate supervision requirements developed by the board, including the requirement that the supervised practice experience must be under the order, control, and full professional responsibility of such supervisor. Nothing in this subdivision shall be construed to permit students, trainees, or supervisees to practice medical nutrition therapy other than as specifically allowed in this subdivision and as provided in section 38-1822;

(4) Be employed as a nutrition or dietetic technician or other food service professional who is working in a hospital setting or other regulated health care facility or program and who has been trained and is supervised while engaged in the provision of medical nutrition therapy by an individual licensed pursuant to the Medical Nutrition Therapy Practice Act whose services are retained by that facility or program on a full-time or regular, part-time, or consultant basis;

(5) Provide individualized nutrition information, guidance, motivation, nutrition recommendations, behavior change management, health coaching, holistic and wellness education, or other nutrition-care services that do not constitute medical nutrition therapy as long as such activity is being performed by a person who is not licensed under the Medical Nutrition Therapy Practice Act and who is not acting in the capacity of or claiming to be a licensed dietitian nutritionist or licensed nutritionist;

(6) Accept or transmit written, verbal, delegated, or electromagnetically transmitted orders for medical nutrition therapy from a referring provider by a registered nurse or licensed practical nurse;

(7) Provide medical nutrition therapy without remuneration to family members;

(8) Aide in the provision of medical nutrition therapy if:

(a) The person performs nutrition-care services at the direction of an individual licensed under the Uniform Credentialing Act whose scope of practice includes provision of medical nutrition therapy; and

(b) The person performs only support activities of medical nutrition therapy that do not require the exercise of independent judgment for which a license under the Medical Nutrition Therapy Practice Act is required;

(9) Practice medical nutrition therapy if the practitioner is licensed in another state, United States territory, or country, has received at least a baccalaureate degree, and is in this state for the purpose of:

(a) Consultation, if the practice in this state is limited to consultation; or

(b) Conducting a teaching clinical demonstration in connection with a program of basic clinical education, graduate education, or postgraduate education which is sponsored by a dietetic education program or a major course of study in human nutrition, food and nutrition, or dietetics, or an equivalent major course of study approved by the board;

(10) Perform individualized general nutrition-care services, not constituting medical nutrition therapy, incidental to the practice of the profession insofar as it does not exceed the scope of the person's education and training;

(11) Market or distribute food, food materials, or dietary supplements, advise regarding the use of those products or the preparation of those products, or counsel individuals or groups in the selection of products to meet general nutrition needs;

(12) Conduct classes or disseminate general nonmedical nutrition information;

(13) Provide care for the sick in accordance with the tenets and practices of any bona fide church or religious denomination;

(14) Practice medical nutrition therapy for the limited purpose of education and research by any person with a master's or doctoral degree from a United States accredited college or university with a major course of study in nutrition or an equivalent course of study as approved by the department;

(15) Provide information and instructions regarding food intake or exercise as a part of a weight control program;

(16) Participate in academic teaching or research with an advanced postgraduate degree; and

(17) Present a general program of instruction for medical weight control for an individual with prediabetes or obesity if the program has been approved in writing by, consultation is available from, and no program change is initiated without prior approval from, any one of the following:

(a) A licensed dietitian nutritionist or a licensed nutritionist;

(b) A registered dietitian or registered dietitian nutritionist;

(c) A certified nutritionist specialist; or

(d) A licensed health care practitioner acting within the scope of such practitioner's license as part of a plan of care.

Source: Laws 1988, LB 557, § 3; Laws 1995, LB 406, § 22; R.S.1943, (2003), § 71-1,287; Laws 2007, LB463, § 634; Laws 2023, LB227, § 43.

Operative date September 2, 2023.

38-1813 Licensed dietitian nutritionist; eligibility; qualifications; prior licensure; how treated.

(1) A person shall be eligible to be a licensed dietitian nutritionist if such person is eighteen years of age or older, submits a completed application as required by the board, submits fees required by the board, and furnishes evidence of:

(a) A current, valid registration as a registered dietitian nutritionist with the Commission on Dietetic Registration or a similar successor entity approved by the department; or

(b)(i)(A) A master's or doctoral degree from a college or university accredited at the time of graduation from the appropriate accrediting agency recognized by the Council for Higher Education Accreditation and the United States Department of Education with a major course of study in human nutrition, foods and nutrition, dietetics, food systems management, nutrition education, nutrition, nutrition science, clinical nutrition, applied clinical nutrition, nutri-

tion counseling, nutrition and functional medicine, nutritional biochemistry, nutrition and integrative health, or an equivalent course of study that, as approved by the board, meets the competency requirements of an accredited didactic program in dietetics of the Accreditation Council for Education in Nutrition and Dietetics or a similar successor entity approved by the Department of Health and Human Services; or

(B) An academic degree from a foreign country that has been validated as equivalent by a credential evaluation agency recognized by the United States Department of Education and that, as approved by the board, meets the competency requirements of an accredited didactic program in dietetics of the Accreditation Council for Education in Nutrition and Dietetics;

(ii) Successful completion of a planned clinical program in an approved practice of dietetics and nutrition that, as approved by the board, meets the competency requirements of an accredited supervised practice experience in dietetics of the Accreditation Council for Education in Nutrition and Dietetics comprised of not less than one thousand hours of practice under the supervision of a registered dietitian nutritionist. A supervisor who obtained a doctoral degree outside of the United States and territories of the United States shall have the degree validated as equivalent to a doctoral degree conferred by an accredited college or university in the United States by a credential evaluation agency recognized by the United States Department of Education as approved by the Department of Health and Human Services; and

(iii) Successful completion of the examination for dietitian nutritionists administered by the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics or a similar successor entity approved by the Department of Health and Human Services.

(2) A person licensed as a licensed medical nutrition therapist and credentialed as a registered dietitian nutritionist by the Commission on Dietetic Registration or a similar successor entity recognized by the board on September 2, 2023, shall be deemed to be licensed as a licensed dietitian nutritionist for the term of the license. A person licensed as a licensed medical nutrition therapist who is not credentialed as a registered dietitian on September 2, 2023, shall be deemed to be licensed as a licensed nutritionist for the term of the license.

Source: Laws 1988, LB 557, § 5; Laws 1995, LB 406, § 24; R.S.1943, (2003), § 71-1,289; Laws 2007, LB463, § 635; Laws 2020, LB1002, § 41; Laws 2021, LB528, § 8; Laws 2023, LB227, § 44. Operative date September 2, 2023.

Cross References

Credentialing, general requirements and issuance procedures, see section 38-121 et seq.

38-1816 Act, how construed; assisted-living facilities or nursing facilities; provision of medical nutrition therapy.

(1) Nothing in the Medical Nutrition Therapy Practice Act shall be construed to permit a licensed dietitian nutritionist or a licensed nutritionist to practice any other profession regulated under the Uniform Credentialing Act.

(2) Nothing in the Medical Nutrition Therapy Practice Act shall require assisted-living facilities or nursing facilities to provide medical nutrition therapy, unless otherwise required by law, or employ or consult with licensed

dietitian nutritionists or licensed nutritionists, so long as any medical nutrition therapy provided in such facilities is provided under an exemption listed under section 38-1812.

Source: Laws 1988, LB 557, § 9; Laws 1994, LB 853, § 1; Laws 1995, LB 406, § 29; R.S.1943, (2003), § 71-1,293; Laws 2007, LB463, § 638; Laws 2023, LB227, § 51.
Operative date September 2, 2023.

38-1817 Licensed nutritionist; eligibility; qualifications.

A person shall be eligible to be a licensed nutritionist if such person is eighteen years of age or older, submits a completed application as required by the board, submits fees required by the board, and furnishes evidence of:

(1) Certification as a certified nutrition specialist or proof of successful completion of the examination administered by the board for Certification of Nutrition Specialists of the American Nutrition Association or a similar successor entity approved by the department or an equivalent examination dealing with all aspects of the practice of dietetics and nutrition approved by the department;

(2)(a) A master's or doctoral degree from a college or university accredited at the time of graduation from the appropriate accrediting agency recognized by the Council on Higher Education Accreditation and the United States Department of Education with a major course of study as approved by the board that provides the knowledge requirements necessary for the competent provision of medical nutrition therapy; or

(b) An academic degree from a foreign country that has been validated as equivalent to the degree and course of study described in subdivision (a) of this subdivision as determined by the board;

(3) Successful completion of coursework leading to competence in medical nutrition therapy which includes (a) fifteen semester hours of clinical or life sciences, including such courses as chemistry, organic chemistry, biology, molecular biology, biotechnology, botany, genetics, genomics, neuroscience, experimental science, immunotherapy, pathology, pharmacology, toxicology, research methods, applied statistics, biostatistics, epidemiology, energy production, molecular pathways, hormone and transmitter regulations and imbalance, and pathophysiologic base of disease, with at least three semester hours in human anatomy and physiology or the equivalent, and (b) fifteen semester hours of nutrition and metabolism, with at least six semester hours in biochemistry or an equivalent approved by the board; and

(4) Successful completion of a board-approved, planned, continuous internship or a documented, planned, continuous, supervised practice experience with a qualified supervisor, demonstrating competency in nutrition-care services and the provision of medical nutrition therapy comprised of not less than one thousand hours involving at least two hundred hours of nutrition assessment and nutrition diagnosis, two hundred hours of nutrition intervention or counseling, and two hundred hours of nutrition monitoring and evaluation. A minimum of seven hundred hours of the supervised practice experience is required in professional work settings, and no more than three hundred hours may be in alternate supervised experiences such as observational interactions between patient and practitioner, simulation, case studies, or role playing. This experience shall be under the supervision of a qualified supervisor. Qualified

supervisors shall provide general supervision of an applicant's supervised practice experience in the provision of medical nutrition therapy and provide appropriate supervision of an applicant's provision of other nutrition-care services that do not constitute medical nutrition therapy. For purposes of this subdivision, a supervisor shall be licensed in this state if supervising an applicant providing medical nutrition therapy to a person in this state. A supervisor who obtained a doctoral degree outside of the United States and territories of the United States shall have the degree validated as equivalent to a doctoral degree conferred by an accredited college or university in the United States by a credential evaluation agency recognized by the United States Department of Education.

Source: Laws 2023, LB227, § 45.
Operative date September 2, 2023.

38-1818 Appropriate supervision; requirements.

The board shall develop requirements for appropriate supervision consistent with prevailing professional standards considering factors that include, but are not limited to, level of education, experience, and level of responsibility. The requirements shall include:

- (1) Adequate, active, and continuing review of the supervisee's activities to assure that the supervisee is performing as directed and complying with the statutes and all related administrative regulations;
- (2) Personal review by the qualified supervisor of the supervisee's practice on a regular basis and regularly scheduled, face-to-face, education and review conferences between the qualified supervisor and the supervisee;
- (3) Personal review of all charts, records, and clinical notes of the supervisee on a regular basis;
- (4) Designation of an alternate qualified supervisor to supervise any services provided in the event of a qualified supervisor's absence; and
- (5) Knowledge of, and adherence to, by each supervisee and qualified supervisor, the assigned level of responsibility and the permissible types of supervision and documentation as determined by the board in supervision requirements.

Source: Laws 2023, LB227, § 46.
Operative date September 2, 2023.

38-1819 Temporary license.

- (1) A temporary license to practice medical nutrition therapy may be granted to any person who meets all the requirements for a license except passage of the examination required by section 38-1813 or 38-1817. A temporary licensee shall be supervised by a qualified supervisor. A temporary license shall be valid for one year or until the temporary licensee takes the examination, whichever occurs first. The temporary licensee shall be designated by a title clearly indicating such licensee's status as a student or trainee. If a temporary licensee fails the examination required by section 38-1813 or 38-1817, the temporary license shall be null and void, except that the department, with the recommendation of the board, may extend the temporary license upon a showing of good cause for up to six months. A temporary license shall not be issued to any

person who fails to pass the examination if such person did not hold a valid temporary license prior to the failure to pass the examination.

(2) This section shall not apply to a temporary license issued as provided under section 38-129.01.

Source: Laws 2023, LB227, § 47.

Operative date September 2, 2023.

38-1820 Medical nutrition therapy; authorized; use of titles, abbreviations, words; limitations.

(1) Unless otherwise authorized or exempted under the Medical Nutrition Therapy Practice Act:

(a) Only a licensed dietitian nutritionist or licensed nutritionist may provide medical nutrition therapy; and

(b) No person shall use the title dietitian nutritionist, nutritionist, dietitian, licensed dietitian nutritionist, licensed medical nutrition therapist, licensed nutritionist, medical nutrition therapist, or licensed nutrition specialist, or the abbreviation LDN or LN, or any other title, designation, word, letter, abbreviation, or insignia indicating that the person is a provider of medical nutrition therapy or licensed under the Medical Nutrition Therapy Practice Act unless the person is a licensed dietitian nutritionist or a licensed nutritionist.

(2) Only a person who is issued a license as a dietitian nutritionist under the act may use the words licensed dietitian nutritionist, dietitian nutritionist, or dietitian or the letters LDN in connection with such person's name. Only a person who is issued a license as a nutritionist under the act may use the words licensed nutritionist or the letters LN in connection with such person's name. Only a person licensed under the act may use the word nutritionist in connection with such person's name. A person may use any lawfully earned federally trademarked title, and the following persons may use the following words, titles, or letters: (a) A registered dietitian nutritionist may use registered dietitian, registered dietitian nutritionist, rd, or rdn; (b) a person who is credentialed by the Board for Certification of Nutrition Specialists as a certified nutrition specialist may use certified nutrition specialist or cns; or (c) a board-certified nutrition pharmacist may use the title nutrition specialist.

Source: Laws 2023, LB227, § 48.

Operative date September 2, 2023.

38-1821 Licensed dietitian nutritionist; licensed nutritionist; practice requirements; authorized activities; limitations.

(1) A licensed dietitian nutritionist or a licensed nutritionist, unless otherwise exempt, shall:

(a) Provide medical nutrition therapy using evidence-based practice and the nutrition-care services process for patients and clients in clinical and community settings for the purpose of treatment or management of a diagnosed medical disease or medical condition. The nutrition-care services process involves application of the scientific method to medical nutrition therapy and consists of four distinct, but interrelated, steps of nutrition assessment, nutrition diagnosis, nutrition intervention, and nutrition monitoring and evaluation;

(b) Use specialized knowledge and skill to apply the systematic problem-solving method to make diagnostic judgments when providing medical nutrition therapy for safe, effective, and high-quality care; and

(c) Use critical thinking to collect relevant data, determine nutrition diagnosis based upon interpreted data, establish patient and client goals, determine a nutrition plan and interventions to solve the problem, and evaluate the effectiveness of interventions and progress toward the desired goals or outcomes.

(2) A licensed dietitian nutritionist or a licensed nutritionist may:

(a) Accept or transmit written, verbal, delegated, or electromagnetically transmitted orders from a referring provider consistent with the Medical Nutrition Therapy Practice Act and rules and regulations adopted and promulgated pursuant to the act and with any controlling protocols established to implement medical nutrition therapy;

(b) Recommend and order patient diets, including therapeutic diets, oral nutrition supplements, and dietary supplements, in accordance with the Medical Nutrition Therapy Practice Act and the rules and regulations adopted and promulgated pursuant to the act. Therapeutic diets may include oral, enteral, or parenteral nutrition therapy. Enteral and parenteral nutrition therapy consists of enteral feedings or specialized intravenous solutions and associated nutrition-related services as part of a therapeutic diet and shall only be ordered, initiated, or performed by a licensed dietitian nutritionist or licensed nutritionist who also meets one of the following criteria:

(i) The licensee is a registered dietitian nutritionist;

(ii) The licensee is a certified nutrition support clinician certified by the National Board of Nutrition Support Certification; or

(iii) The licensee meets other requirements demonstrating competency as determined by the board in evaluating and ordering enteral and parenteral therapy and administering enteral therapy;

(c) Order medical or laboratory tests related to nutritional therapeutic treatments;

(d) Implement prescription drug dose adjustments for specific disease treatment protocols within the limits of such licensee's knowledge, skills, judgment, and clinical practice guidelines pursuant to any applicable and controlling facility-approved protocol and as approved and delegated by the licensed prescriber, physician, or other authorized health care provider who prescribed the drug or drugs to be adjusted. Nothing in this subdivision shall be construed to permit individuals licensed under the Medical Nutrition Therapy Practice Act to independently prescribe or initiate drug treatment. A licensed dietitian nutritionist or a licensed nutritionist may recommend and order or discontinue vitamin and mineral supplements; and

(e) Develop, implement, and manage nutrition-care services systems and evaluate, change, and maintain appropriate standards of quality in food and nutrition-care services.

(3)(a) Nothing in this section shall be construed to limit the ability of any other licensed health care professional to order therapeutic diets if ordering therapeutic diets falls within the scope of practice of the licensed health care professional.

(b) Nothing in this section shall be construed to limit the ability of persons who are not licensed dietitian nutritionists or licensed nutritionists from providing services which they are lawfully able to provide.

Source: Laws 2023, LB227, § 49.

Operative date September 2, 2023.

38-1822 Student; accredited course on dietetics and nutrition; practice; limitations.

A student enrolled in an accredited course on dietetics and nutrition recognized by the board may perform any action necessary to complete the student's course of study and engage in the practice of medical nutrition therapy under the appropriate supervision of a supervisor in accordance with section 38-1813 or 38-1817 for a period of no more than five years after the student completes the course of study. The board may, in its discretion, grant a limited extension to such five-year period in the event of extraordinary circumstances to allow the student to satisfy the qualifications for licensure under section 38-1813 or 38-1817. For purposes of this section, extraordinary circumstances may include circumstances in which a person who legally provides medical nutrition therapy in another state has not met the qualifications for licensure under section 38-1813 or 38-1817 within the five-year period after completion of the course of study.

Source: Laws 2023, LB227, § 50.

Operative date September 2, 2023.

ARTICLE 20

MEDICINE AND SURGERY PRACTICE ACT

Section

38-2021. Unprofessional conduct, defined.

38-2021 Unprofessional conduct, defined.

Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of medicine and surgery or the ethics of the profession, regardless of whether a person, patient, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including, but not limited to:

(1) Performance by a physician of an abortion as defined in subdivision (1) of section 28-326 under circumstances when he or she will not be available for a period of at least forty-eight hours for postoperative care unless such postoperative care is delegated to and accepted by another physician;

(2) Performing an abortion upon a minor without having satisfied the requirements of sections 71-6901 to 71-6911;

(3) The intentional and knowing performance of a partial-birth abortion as defined in subdivision (8) of section 28-326, unless such procedure is necessary to save the life of the mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself;

(4) Performance by a physician of an abortion in violation of the Pain-Capable Unborn Child Protection Act; and

(5) Violation of the Preborn Child Protection Act.

Source: Laws 2007, LB463, § 679; Laws 2010, LB594, § 16; Laws 2010, LB1103, § 12; Laws 2011, LB690, § 1; Laws 2020, LB814, § 10; Laws 2023, LB574, § 12.
Operative date May 23, 2023.

Cross References

Pain-Capable Unborn Child Protection Act, see section 28-3,102.

Preborn Child Protection Act, see section 71-6912.

ARTICLE 21

MENTAL HEALTH PRACTICE ACT

Section

38-2136. Mental health practitioners; confidentiality; exception.

38-2136 Mental health practitioners; confidentiality; exception.

No person who is licensed or certified pursuant to the Mental Health Practice Act or who holds a privilege to practice in Nebraska as a professional counselor under the Licensed Professional Counselors Interstate Compact shall disclose any information he or she may have acquired from any person consulting him or her in his or her professional capacity except:

(1) With the written consent of the person or, in the case of death or disability, of the person's personal representative, any other person authorized to sue on behalf of the person, or the beneficiary of an insurance policy on the person's life, health, or physical condition. When more than one person in a family receives therapy conjointly, each such family member who is legally competent to execute a waiver shall agree to the waiver referred to in this subdivision. Without such a waiver from each family member legally competent to execute a waiver, a practitioner shall not disclose information received from any family member who received therapy conjointly;

(2) As such privilege against disclosure is limited by the laws of the State of Nebraska or as the board may determine by rule and regulation;

(3) When the person waives the privilege against disclosure by bringing charges against the licensee;

(4) When there is a duty to warn under the limited circumstances set forth in section 38-2137; or

(5) When the disclosure of information is permitted under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, or as otherwise permitted by law.

Source: Laws 1993, LB 669, § 54; Laws 1994, LB 1210, § 109; Laws 1999, LB 828, § 150; R.S.1943, (2003), § 71-1,335; Laws 2007, LB247, § 46; Laws 2007, LB463, § 753; Laws 2022, LB752, § 18; Laws 2023, LB50, § 20.
Effective date September 2, 2023.

Cross References

Licensed Professional Counselors Interstate Compact, see section 38-4201.

ARTICLE 28

PHARMACY PRACTICE ACT

Section	
38-2801.	Act, how cited.
38-2852.	Examinations; grade.
38-2867.01.	Authority to compound; standards; labeling; prohibited acts.
38-2891.	Pharmacy technicians; authorized functions and tasks.
38-2894.	Pharmacy technician; registration; disciplinary measures; procedure; Licensee Assistance Program; participation.
38-28,102.	Prescribing practitioner; loss of ability to prescribe; effect on validity of prescription; pharmacist; use professional judgment; applicability.

38-2801 Act, how cited.

Sections 38-2801 to 38-28,107 and the Nebraska Drug Product Selection Act shall be known and may be cited as the Pharmacy Practice Act.

Source: Laws 2007, LB247, § 79; Laws 2007, LB463, § 897; Laws 2009, LB195, § 47; Laws 2009, LB604, § 1; Laws 2011, LB179, § 2; Laws 2015, LB37, § 29; Laws 2017, LB166, § 9; Laws 2017, LB481, § 1; Laws 2018, LB731, § 67; Laws 2019, LB74, § 1; Laws 2023, LB227, § 52.
Operative date September 2, 2023.

Cross References

Nebraska Drug Product Selection Act, see section 38-28,108.

38-2852 Examinations; grade.

Every applicant for licensure as a pharmacist shall be required to attain a grade to be determined by the board in an examination in pharmacy and in an examination in jurisprudence of pharmacy.

Source: Laws 2007, LB463, § 948; Laws 2023, LB227, § 54.
Operative date September 2, 2023.

38-2867.01 Authority to compound; standards; labeling; prohibited acts.

(1) Any person authorized to compound shall compound in compliance with the standards of chapters 795 and 797 of The United States Pharmacopeia and The National Formulary, as such chapters existed on January 1, 2023, and shall compound (a) as the result of a practitioner's medical order or initiative occurring in the course of practice based upon the relationship between the practitioner, patient, and pharmacist, (b) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing, or (c) for office use only and not for resale.

(2) Compounding in a hospital pharmacy may occur for any hospital which is part of the same health care system under common ownership or which is a member of or an affiliated member of a formal network or partnership agreement.

(3)(a) Any authorized person may reconstitute a commercially available drug product in accordance with directions contained in approved labeling provided by the product's manufacturer and other manufacturer directions consistent with labeling.

(b) Any authorized person using beyond-use dating must follow the approved product manufacturer's labeling or the standards of The United States Pharmacopeia and The National Formulary if the product manufacturer's labeling does not specify beyond-use dating.

(c) Any authorized person engaged in activities listed in this subsection is not engaged in compounding, except that any variance from the approved product manufacturer's labeling will result in the person being engaged in compounding.

(4) Any authorized person splitting a scored tablet along scored lines or adding flavoring to a commercially available drug product is not engaged in compounding.

(5) No person shall compound:

(a) A drug that has been identified by the federal Food and Drug Administration as withdrawn or removed from the market because the drug was found to be unsafe or ineffective;

(b) A drug that is essentially a copy of an approved drug unless there is a drug shortage as determined by the board or unless a patient has an allergic reaction to the approved drug; or

(c) A drug that has been identified by the federal Food and Drug Administration or the board as a product which may not be compounded.

Source: Laws 2015, LB37, § 45; Laws 2023, LB227, § 55.
Operative date September 2, 2023.

38-2891 Pharmacy technicians; authorized functions and tasks.

(1) A pharmacy technician shall only perform tasks which do not require the professional judgment of a pharmacist and which are subject to verification to assist a pharmacist in the practice of pharmacy.

(2) A pharmacy technician may administer vaccines, and such administration shall not be considered to be performing a task requiring the professional judgment of a pharmacist, when:

(a) The vaccines are verified by the pharmacist responsible for the supervision and verification of the activities of the pharmacy technician prior to administration;

(b) Administration is limited to intra-muscular in the deltoid muscle or subcutaneous on the arm to a person three years of age or older;

(c) The pharmacy technician is certified as required by section 38-2890;

(d) The pharmacy technician has completed certificate training in vaccine administration that includes, at a minimum, vaccine administration, blood-borne pathogen exposure, safety measures during administration, and biohazard handling;

(e) The pharmacy technician is currently certified in basic life-support skills for health care providers as determined by the board; and

(f) The pharmacist responsible for the supervision and verification of the activities of the pharmacy technician is on site.

(3) The functions and tasks which shall not be performed by pharmacy technicians include, but are not limited to:

- (a) Receiving oral medical orders from a practitioner or his or her agent except as otherwise provided in subsection (4) of section 38-2870;
- (b) Providing patient counseling;
- (c) Performing any evaluation or necessary clarification of a medical order or performing any functions other than strictly clerical functions involving a medical order;
- (d) Supervising or verifying the tasks and functions of pharmacy technicians;
- (e) Interpreting or evaluating the data contained in a patient's record maintained pursuant to section 38-2869;
- (f) Releasing any confidential information maintained by the pharmacy;
- (g) Performing any professional consultations; and
- (h) Drug product selection, with regard to an individual medical order, in accordance with the Nebraska Drug Product Selection Act.

(4) The director shall, with the recommendation of the board, waive any of the limitations in subsection (2) of this section for purposes of a scientific study of the role of pharmacy technicians approved by the board. Such study shall be based upon providing improved patient care or enhanced pharmaceutical care. Any such waiver shall state the length of the study and shall require that all study data and results be made available to the board upon the completion of the study. Nothing in this subsection requires the board to approve any study proposed under this subsection.

Source: Laws 2007, LB236, § 32; R.S.Supp.,2007, § 71-1,147.66; Laws 2007, LB247, § 82; Laws 2018, LB731, § 75; Laws 2021, LB583, § 6; Laws 2023, LB227, § 56.
Operative date June 7, 2023.

Cross References

Nebraska Drug Product Selection Act, see section 38-28,108.

38-2894 Pharmacy technician; registration; disciplinary measures; procedure; Licensee Assistance Program; participation.

(1) A registration to practice as a pharmacy technician may be denied, refused renewal, removed, or suspended or have other disciplinary measures taken against it by the department, with the recommendation of the board, for failure to meet the requirements of or for violation of any of the provisions of subdivisions (1) through (18) and (20) through (27) of section 38-178 and sections 38-2890 to 38-2897 or the rules and regulations adopted under such sections.

(2) If the department proposes to deny, refuse renewal of, or remove or suspend a registration, it shall send the applicant or registrant a notice setting forth the action to be taken and the reasons for the determination. The denial, refusal to renew, removal, or suspension shall become final thirty days after mailing the notice unless the applicant or registrant gives written notice to the department of his or her desire for an informal conference or for a formal hearing.

(3) Notice may be served by any method specified in section 25-505.01, or the department may permit substitute or constructive service as provided in section 25-517.02 when service cannot be made with reasonable diligence by any of the methods specified in section 25-505.01.

(4) Pharmacy technicians may participate in the Licensee Assistance Program described in section 38-175.

Source: Laws 2007, LB236, § 35; R.S.Supp.,2007, § 71-1,147.69; Laws 2007, LB247, § 83; Laws 2009, LB288, § 3; Laws 2019, LB449, § 5; Laws 2022, LB752, § 23; Laws 2023, LB574, § 13.
Operative date May 23, 2023.

38-28,102 Prescribing practitioner; loss of ability to prescribe; effect on validity of prescription; pharmacist; use professional judgment; applicability.

A prescription that is valid when written remains valid for the period stated in the medical order notwithstanding the prescribing practitioner's subsequent death or retirement or the suspension or revocation of the prescribing practitioner's credential by the appropriate board, and a pharmacist may use professional judgment to fill or refill such a prescription which has sufficient fills remaining. This section shall not apply to a prescription issued by a veterinarian.

Source: Laws 2023, LB227, § 53.
Operative date September 2, 2023.

ARTICLE 44

BEHAVIOR ANALYST PRACTICE ACT

Section

- 38-4401. Act, how cited.
- 38-4402. Definitions, where found.
- 38-4403. Behavior technician, defined.
- 38-4404. Board, defined.
- 38-4405. Certifying entity, defined.
- 38-4406. Licensed assistant behavior analyst, defined.
- 38-4407. Licensed behavior analyst, defined.
- 38-4408. Practice of applied behavior analysis, defined.
- 38-4409. Act; applicability; how construed.
- 38-4410. Licensed behavior analyst; licensed assistant behavior analyst; license required; when; application; minimum standards.
- 38-4411. Temporary license.
- 38-4412. Behavior technician; prohibited acts.
- 38-4413. Code of conduct.
- 38-4414. Fees.

38-4401 Act, how cited.

Sections 38-4401 to 38-4414 shall be known and may be cited as the Behavior Analyst Practice Act.

Source: Laws 2023, LB227, § 1.
Operative date September 2, 2023.

38-4402 Definitions, where found.

For purposes of the Behavior Analyst Practice Act, the definitions found in sections 38-4403 to 38-4408 apply.

Source: Laws 2023, LB227, § 2.
Operative date September 2, 2023.

38-4403 Behavior technician, defined.

Behavior technician means an individual who practices under the close, ongoing supervision of a licensed behavior analyst or a licensed assistant behavior analyst.

Source: Laws 2023, LB227, § 3.
Operative date September 2, 2023.

38-4404 Board, defined.

Board means the Board of Behavior Analysts.

Source: Laws 2023, LB227, § 4.
Operative date September 2, 2023.

38-4405 Certifying entity, defined.

Certifying entity means the Behavior Analyst Certification Board or another equivalent entity approved by the Board of Behavior Analysts which has programs to credential practitioners of applied behavior analysis that have substantially equivalent requirements as the programs offered by the Behavior Analyst Certification Board as determined by the Board of Behavior Analysts.

Source: Laws 2023, LB227, § 5.
Operative date September 2, 2023.

38-4406 Licensed assistant behavior analyst, defined.

Licensed assistant behavior analyst means an individual practicing under the close ongoing supervision of a licensed behavior analyst and who also meets the requirements specified in section 38-4410 and is issued a license as a licensed assistant behavior analyst under the Behavior Analyst Practice Act by the department.

Source: Laws 2023, LB227, § 6.
Operative date September 2, 2023.

38-4407 Licensed behavior analyst, defined.

Licensed behavior analyst means an individual who meets the requirements specified in section 38-4410 and who is issued a license as a licensed behavior analyst under the Behavior Analyst Practice Act by the department.

Source: Laws 2023, LB227, § 7.
Operative date September 2, 2023.

38-4408 Practice of applied behavior analysis, defined.

(1) Practice of applied behavior analysis means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior.

(2) Practice of applied behavior analysis includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis.

(3) Applied behavior analysis interventions (a) are based on scientific research and direct and indirect observation and measurement of behavior and environment and (b) utilize contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other procedures to help individuals

develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions.

(4) Practice of applied behavior analysis excludes (a) diagnosis of disorders, (b) psychological testing, (c) psychotherapy, (d) cognitive therapy, (e) psychoanalysis, (f) counseling, (g) functional movement analysis, (h) practice by persons required to be credentialed under the Audiology and Speech-Language Pathology Practice Act in the diagnosis or treatment of hearing, speech, communication, or swallowing disorders, or (i) practice by persons required to be credentialed under the Occupational Therapy Practice Act in the treatment of occupational performance dysfunction, such as activities of daily living and instrumental activities of daily living.

Source: Laws 2023, LB227, § 8.
Operative date September 2, 2023.

Cross References

Audiology and Speech-Language Pathology Practice Act, see section 38-501.
Occupational Therapy Practice Act, see section 38-2501.

38-4409 Act; applicability; how construed.

The Behavior Analyst Practice Act shall not be construed as prohibiting the practice of any of the following:

(1) A licensed psychologist in the State of Nebraska and any person who delivers psychological services under the supervision of a licensed psychologist, if the applied behavior analysis services are provided within the scope of the licensed psychologist's education, training, and competence and the licensed psychologist does not represent that the psychologist is a licensed behavior analyst unless the psychologist is licensed as a behavior analyst under the act;

(2) An individual licensed to practice any other profession in the State of Nebraska and any person who delivers services under the supervision of the licensed professional, if (a) applied behavior analysis is stated in the Uniform Credentialing Act as being in the scope of practice of the profession, (b) the applied behavior analysis services provided are within the scope of the licensed professional's education, training, and competence, and (c) the licensed professional does not represent that the professional is a licensed behavior analyst unless the professional is licensed as a behavior analyst under the act;

(3) A behavior technician who delivers applied behavior analysis services under the extended authority and direction of a licensed behavior analyst or a licensed assistant behavior analyst;

(4) A caregiver of a recipient of applied behavior analysis services who delivers those services to the recipient under the extended authority and direction of a licensed behavior analyst. A caregiver shall not represent that the caregiver is a professional behavior analyst;

(5) A behavior analyst who practices with animals, including applied animal behaviorists and animal trainers. Such a behavior analyst may use the title "behavior analyst" but may not represent that the behavior analyst is a licensed behavior analyst unless the behavior analyst is licensed under the act;

(6) A professional who provides general applied behavior analysis services to organizations, so long as those services are for the benefit of the organizations and do not involve direct services to individuals. Such a professional may use

the title “behavior analyst” but may not represent that the professional is a licensed behavior analyst unless the professional is licensed under the act;

(7) A matriculated college or university student or postdoctoral fellow whose applied behavior analysis activity is part of a defined program of study, course, practicum, internship, or fellowship and is directly supervised by a licensed behavior analyst licensed in Nebraska or a qualified faculty member of a college or university offering a program of study, course, practicum, internship, or fellowship in applied behavior analysis. Such student or fellow shall not represent that the student or fellow is a professional behavior analyst and shall use a title that clearly indicates the trainee status, such as student, intern, or trainee;

(8) An unlicensed individual pursuing experience in applied behavior analysis consistent with the experience requirements of the certifying entity, if such experience is supervised in accordance with the requirements of the certifying entity;

(9) An individual who teaches behavior analysis or conducts behavior-analytic research, if such activities do not involve the direct delivery of applied behavior analysis services beyond the typical parameters of applied research. Such an individual may use the title “behavior analyst” but shall not represent that the individual is a licensed behavior analyst unless the individual is licensed under the act; and

(10) An individual employed by a school district performing the duties for which employed. Such an individual shall not represent that the individual is a licensed behavior analyst unless the individual is licensed under the act, shall not offer applied behavior analysis services to any person or entity other than the school which employs the individual, and shall not accept remuneration for providing applied behavior analysis services other than the remuneration received for the duties for which employed by the school employer.

Source: Laws 2023, LB227, § 9.

Operative date September 2, 2023.

38-4410 Licensed behavior analyst; licensed assistant behavior analyst; license required; when; application; minimum standards.

(1) Beginning one year after September 2, 2023, each applicant for licensure as a licensed behavior analyst or licensed assistant behavior analyst shall submit an application that includes evidence that the applicant meets the requirements of the Uniform Credentialing Act for a license as a licensed behavior analyst or licensed assistant behavior analyst, as applicable.

(2) The board shall adopt rules and regulations to specify minimum standards required for a license as a licensed behavior analyst or a licensed assistant behavior analyst as provided in section 38-126. The board shall include certification by the certifying entity as a Board Certified Behavior Analyst® or a Board Certified Behavior Analyst-Doctoral® as part of the minimum standards for licensure as a licensed behavior analyst. The board shall include certification by the certifying entity as a Board Certified Assistant Behavior Analyst® as part of the minimum standards for licensure as a licensed assistant behavior analyst.

Source: Laws 2023, LB227, § 10.

Operative date September 2, 2023.

38-4411 Temporary license.

(1) A behavior analyst or an assistant behavior analyst who is licensed in another jurisdiction or certified by the certifying entity to practice independently and who provides applied behavior analysis services in the State of Nebraska on a short-term basis may apply for a temporary license. An applicant for a temporary license shall submit evidence that the practice in Nebraska will be temporary as determined by the board according to rules and regulations adopted and promulgated pursuant to section 38-126. The department shall issue a temporary license under this subsection only if the department verifies the applicant's licensure or certification status with the relevant entity.

(2) An applicant for licensure as a licensed behavior analyst or as a licensed assistant behavior analyst under the Behavior Analyst Practice Act who is a military spouse may apply for a temporary license as provided in section 38-129.01.

Source: Laws 2023, LB227, § 11.
Operative date September 2, 2023.

38-4412 Behavior technician; prohibited acts.

A behavior technician shall not represent that the technician is a professional behavior analyst and shall use a title that indicates the nonprofessional status, such as Registered Behavior Technician®, behavior technician, or tutor.

A behavior technician shall not design assessment or intervention plans or procedures but may deliver services as assigned by the supervisor responsible for the technician's work as designated by the licensed behavior analyst.

Source: Laws 2023, LB227, § 12.
Operative date September 2, 2023.

38-4413 Code of conduct.

The board shall adopt a code of conduct for licensed behavior analysts and licensed assistant behavior analysts. The code of conduct shall be based on the Ethics Code for Behavior Analysts adopted by the certifying entity.

Source: Laws 2023, LB227, § 13.
Operative date September 2, 2023.

38-4414 Fees.

The department shall establish and collect fees for initial licensure and renewal under the Behavior Analyst Practice Act as provided in sections 38-151 to 38-157.

Source: Laws 2023, LB227, § 14.
Operative date September 2, 2023.

CHAPTER 39

HIGHWAYS AND BRIDGES

Article.

- 8. Bridges.
 - (g) State Aid Bridges. 39-847.
- 13. State Highways.
 - (h) Contracts. 39-1348, 39-1351.
- 22. Nebraska Highway Bonds. 39-2202 to 39-2224.
- 27. Build Nebraska Act. 39-2703, 39-2704.
- 28. Transportation Innovation Act. 39-2805.

ARTICLE 8

BRIDGES

(g) STATE AID BRIDGES

Section

- 39-847. State aid for bridges; application for replacement; costs; priorities; plans and specifications; contracts; maintenance.

(g) STATE AID BRIDGES

39-847 State aid for bridges; application for replacement; costs; priorities; plans and specifications; contracts; maintenance.

(1) Any county board may apply, in writing, to the Department of Transportation for state aid in the replacement of any bridge under the jurisdiction of such board. The application shall contain a description of the bridge, with a preliminary estimate of the cost of replacement thereof, and a certified copy of the resolution of such board, pledging such county to furnish up to twenty percent of the cost of replacement of such bridge. The county's share of replacement cost may be from any source except the State Aid Bridge Fund, except that where there is any bridge which is the responsibility of two counties, either county may make application to the department and, if the application is approved by the department, such county and the department may replace such bridge and recover, by suit, one-half of the county's cost of such bridge from the county failing or refusing to join in such application. All requests for bridge replacement under sections 39-846 to 39-847.01 shall be forwarded by the department to the Board of Public Roads Classifications and Standards. Such board shall establish priorities for bridge replacement based on critical needs. The board shall consider such applications and establish priorities for a period of time consistent with sections 39-2115 to 39-2119. The board shall return the applications to the department with the established priorities.

(2) The plans and specifications for each bridge shall be furnished by the department and replacement shall be under the supervision of the department and the county board.

(3) Any contract for the replacement of any such bridge shall be made by the department consistent with procedures for contracts for state highways and federal-aid secondary roads.

(4) After the replacement of any such bridge and the acceptance thereof by the department, any county having jurisdiction over it shall have sole responsibility for maintenance.

Source: Laws 1911, c. 112, § 2, p. 393; R.S.1913, § 2977; Laws 1919, c. 190, tit. VII, art. III, § 2, p. 815; Laws 1921, c. 260, § 1, p. 875; C.S.1922, § 8357; Laws 1923, c. 157, § 1, p. 382; Laws 1923, c. 156, § 1, p. 381; C.S.1929, § 39-1502; R.S.1943, § 39-847; Laws 1953, c. 287, § 61, p. 966; Laws 1973, LB 87, § 2; Laws 2017, LB339, § 114; Laws 2019, LB82, § 2; Laws 2023, LB138, § 4. Operative date September 2, 2023.

**ARTICLE 13
STATE HIGHWAYS**

(h) CONTRACTS

Section

- 39-1348. Construction; plans and specifications; advertisement for bids; failure of publication; effect; powers of department.
- 39-1351. Construction contracts; bidders; qualifications; evaluation by department; powers of department.

(h) CONTRACTS

39-1348 Construction; plans and specifications; advertisement for bids; failure of publication; effect; powers of department.

(1) Except as otherwise provided in sections 39-2808 to 39-2823, when letting contracts for the construction, reconstruction, improvement, maintenance, or repair of roads, bridges, and their appurtenances, the department shall solicit bids as follows:

(a) For contracts with an estimated cost, as determined by the department, of greater than two hundred fifty thousand dollars, the department shall advertise for sealed bids for not less than twenty days by publication of a notice thereof once a week for three consecutive weeks in the official county newspaper designated by the county board in the county where the work is to be done and in such additional newspaper or newspapers as may appear necessary to the department in order to give notice of the receiving of bids. Such advertisement shall state the place where the plans and specifications for the work may be inspected and shall designate the time when the bids shall be filed and opened. If through no fault of the department publication of such notice fails to appear in any newspaper or newspapers in the manner provided in this subdivision, the department shall be deemed to have fulfilled the requirements of this subdivision; and

(b) For contracts with an estimated cost, as determined by the department, of two hundred fifty thousand dollars or less, the department, in its sole discretion, shall either:

(i) Follow the procedures given in subdivision (a) of this subsection; or

(ii) Request bids from at least three potential bidders for such work. If the department requests bids under this subdivision, it shall designate a time when the bids shall be opened. The department may award a contract pursuant to this subdivision if it receives at least one responsive bid.

(2) The Department of Transportation may adjust the amounts in subdivisions (1)(a) and (b) of this section annually on October 1 by the percentage change in the Consumer Price Index for All Urban Consumers published by the United States Department of Labor, Bureau of Labor Statistics, at the close of the twelve-month period ending on August 31 of such year. The amounts shall be rounded to the next highest one-thousand-dollar amount.

Source: Laws 1955, c. 148, § 48, p. 439; Laws 1961, c. 181, § 8, p. 541; Laws 2015, LB312, § 1; Laws 2016, LB960, § 25; Laws 2023, LB138, § 5.
Operative date September 2, 2023.

39-1351 Construction contracts; bidders; qualifications; evaluation by department; powers of department.

(1) Except as provided in subsection (2) of this section, any person desiring to submit to the department a bid for the performance of any contract for the construction, reconstruction, improvement, maintenance, or repair of roads, bridges, and their appurtenances, which the department proposes to let, shall apply to the department for prequalification. Such application shall be made not later than five days before the letting of the contract unless fewer than five days is specified by the department. The department shall determine the extent of any applicant's qualifications by a full and appropriate evaluation of the applicant's experience, bonding capacity as determined by a bonding agency licensed to do business in the State of Nebraska or other sufficient financial showing deemed satisfactory by the department, and performance record. In determining the qualification of an applicant to bid on any particular contract, the department shall consider the resources available for the particular contract contemplated.

(2) The department may, in its sole discretion, grant an exemption from all prequalification requirements for (a) any contract for the construction, reconstruction, improvement, maintenance, or repair of roads, bridges, and their appurtenances if the estimate of the department for such work is two hundred fifty thousand dollars or less or (b) any contract for the construction, reconstruction, improvement, maintenance, or repair of roads, bridges, and their appurtenances if such work is of an emergency nature.

Source: Laws 1955, c. 148, § 51, p. 439; Laws 1973, LB 491, § 6; Laws 2015, LB312, § 4; Laws 2019, LB117, § 1; Laws 2023, LB138, § 6.
Operative date September 2, 2023.

ARTICLE 22

NEBRASKA HIGHWAY BONDS

Section	
39-2202.	Legislative findings and intent.
39-2203.01.	Build Nebraska Act; highway construction projects; bonds; issuance; terms and conditions; proceeds; use; commission; powers; bonds; maturity date.
39-2205.	Bonds; issuance; amount.
39-2209.	Resolution authorizing issuance of bonds; contents.
39-2211.	Commission; bonds; issuance; agreements; contents; powers.
39-2212.	Pledge or security agreement; lien on funds.
39-2213.	Bonds; special obligations of state; payment.

Section

- 39-2213.01. Build Nebraska Act; highway construction projects; bonds; special obligations of state; payment; exempt from taxation and assessments; waiver of exemption.
- 39-2215. Highway Trust Fund; created; credit to the State Highway Capital Improvement Fund; allocation of remainder; investment; State Treasurer; transfer; disbursements.
- 39-2215.02. State Highway Capital Improvement Fund; pledged for bonds; disbursement; investment.
- 39-2216. Legislature; holders of bonds; pledges not to repeal, diminish, or apply funds for other uses.
- 39-2222. Act, how cited.
- 39-2223. Bonds; issuance; amount.
- 39-2224. Bonds; sale; proceeds; appropriated to Highway Cash Fund or State Highway Capital Improvement Fund.

39-2202 Legislative findings and intent.

The Legislature finds that safe and modern highway infrastructure is of great importance to Nebraska's residents, agricultural economy, business economy, and future economic growth. Furthermore, the Legislature finds that it is in the interest of Nebraska taxpayers to leverage interest rates to offset the challenges that construction inflation and uncertain federal highway funding pose to adequately financing the state's infrastructure needs. It is the intent of the Legislature to conservatively utilize bond financing by issuing bonds, not to exceed four hundred fifty million dollars in principal and thirty-five million dollars in annual debt service for a period of not more than nineteen years, in order to accelerate completion of the highway construction projects identified and to be identified for funding under the Build Nebraska Act.

Source: Laws 2023, LB727, § 29.
Operative date June 7, 2023.

Cross References

Build Nebraska Act, see section 39-2701.

39-2203.01 Build Nebraska Act; highway construction projects; bonds; issuance; terms and conditions; proceeds; use; commission; powers; bonds; maturity date.

Upon the written recommendation of the Department of Transportation, the commission, acting for and on behalf of the state, may issue from time to time bonds under the Nebraska Highway Bond Act by resolution as described in section 39-2209 in such principal amounts as determined by the commission for the purpose of accelerating completion of the highway construction projects identified and to be identified for funding under the Build Nebraska Act. The principal amounts, interest rates, maturities, redemption provisions, sale prices, and other terms of the bonds so authorized to be issued shall be in accordance with terms or conditions established by the commission. No bonds shall be issued after June 30, 2029, except for refunding bonds issued in accordance with the Nebraska Highway Bond Act. The proceeds from the sale of any bonds issued, net of costs of issuance, capitalized interest, and necessary or appropriate reserve funds, shall be deposited in the State Highway Capital Improvement Fund for use pursuant to the Build Nebraska Act. The commission is hereby granted all powers necessary or convenient to carry out the purposes and

exercise the powers granted by the Nebraska Highway Bond Act. Bonds shall be paid off by June 30, 2042.

Source: Laws 2023, LB727, § 30.
Operative date June 7, 2023.

Cross References

Build Nebraska Act, see section 39-2701.

39-2205 Bonds; issuance; amount.

Bonds may be issued under the Nebraska Highway Bond Act only to the extent that the annual aggregate principal and interest requirements, in the calendar year in which such bonds are issued and in each calendar year thereafter until the scheduled maturity of such bonds, on such bonds and on all other bonds theretofore issued and to be outstanding and unpaid upon the issuance of such bonds shall not exceed the amount which is equal to fifty percent of the money deposited in the fund, the State Highway Capital Improvement Fund, or the bond fund, as the case may be, from which such bonds shall be paid during the calendar year preceding the issuance of the bonds proposed to be issued. This section shall not apply to the first issuance of each series of bonds authorized by the Legislature.

If short-term bonds are issued in anticipation of the issuance of long-term refunding bonds and such short-term bonds are secured by insurance or a letter of credit or similar guarantee issued by a financial institution rated by a national rating agency in one of the two highest categories of bond ratings, then, for the purposes of the Nebraska Highway Bond Act, when determining the amount of short-term bonds that may be issued and the amount of taxes, fees, or other money to be deposited in any fund for the payment of bonds issued under the act, the annual aggregate principal and interest payments on the short-term bonds shall be deemed to be such payments thereon, except that the final principal payment shall not be that specified in the short-term bonds but shall be the principal and all interest payments required to reimburse the issuer of the insurance policy or letter of credit or similar guarantee pursuant to the reimbursement agreement between the commission and such issuer.

Source: Laws 1969, c. 309, § 5, p. 1108; Laws 1988, LB 632, § 3; Laws 2023, LB727, § 32.
Operative date June 7, 2023.

39-2209 Resolution authorizing issuance of bonds; contents.

Any resolution or resolutions of the commission authorizing any bonds or any issue thereof may contain provisions, consistent with the Nebraska Highway Bond Act and not in derogation or limitation of such act, which shall be a part of the contract with the holders thereof, as to:

- (1) Pledging all or any part of the money in the fund, the State Highway Capital Improvement Fund, or the bond fund, as the case may be, to secure the payment of the bonds, subject to such agreements with the bondholders as may then prevail;
- (2) The use and disposition of money in the fund, the State Highway Capital Improvement Fund, or the bond fund;
- (3) The setting aside of reserves, sinking funds, or arbitrage rebate funds and the funding, regulation, and disposition thereof;

(4) Limitations on the purpose to which the proceeds from the sale of bonds may be applied;

(5) Limitations on the issuance of additional bonds and on the retirement of outstanding or other bonds pursuant to the Nebraska Highway Bond Act;

(6) The procedure by which the terms of any agreement with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(7) Vesting in a bank or trust company as paying agent such rights, powers, and duties as the commission may determine, vesting in a trustee appointed by the bondholders pursuant to the Nebraska Highway Bond Act such rights, powers, and duties as the commission may determine, and limiting or abrogating the right of the bondholders to appoint a trustee under such act or limiting the rights, powers, and duties of such trustee;

(8) Providing for a municipal bond insurance policy, surety bond, letter of credit, or other credit support facility or liquidity facility; and

(9) Any other matters, of like or different character, which in any way affect the security or protection of the bonds.

Source: Laws 1969, c. 309, § 9, p. 1109; Laws 1988, LB 632, § 4; Laws 2023, LB727, § 33.

Operative date June 7, 2023.

39-2211 Commission; bonds; issuance; agreements; contents; powers.

In addition to the powers conferred upon the commission to secure the bonds in the Nebraska Highway Bond Act, the commission shall have power in connection with the issuance of bonds to enter into such agreements, consistent with the act and not in derogation or limitation of the act, as it may deem necessary, convenient, or desirable concerning the use or disposition of the money in the fund, the State Highway Capital Improvement Fund, or the bond fund including the pledging or creation of any security interest in such money and the doing of or refraining from doing any act which the commission would have the right to do to secure the bonds in the absence of such agreements. The commission shall have the power to enter into amendments of any such agreements, consistent with the Nebraska Highway Bond Act and not in derogation or limitation of the act, within the powers granted to the commission by the act and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of the bonds.

Source: Laws 1969, c. 309, § 11, p. 1110; Laws 1988, LB 632, § 5; Laws 2023, LB727, § 34.

Operative date June 7, 2023.

39-2212 Pledge or security agreement; lien on funds.

Any pledge or security instrument made by the commission shall be valid and binding from the time when the pledge or security instrument is made. The money in the fund, the State Highway Capital Improvement Fund, or the bond fund so pledged and entrusted shall immediately be subject to the lien of such pledge or security instrument upon the deposit thereof in the fund without any physical delivery thereof or further act. The lien of any such pledge or security instrument shall be valid and binding as against all parties having subsequently arising claims of any kind in tort, contract, or otherwise, irrespective of

whether such parties have notice thereof. Neither the resolution nor any security instrument or other instrument by which a pledge or other security is created need be recorded or filed and the commission shall not be required to comply with any of the provisions of the Uniform Commercial Code.

Source: Laws 1969, c. 309, § 12, p. 1111; Laws 1988, LB 632, § 6; Laws 2023, LB727, § 35.

Operative date June 7, 2023.

39-2213 Bonds; special obligations of state; payment.

The bonds shall be special obligations of the state payable solely and only from the fund, the State Highway Capital Improvement Fund, or the bond fund, as the case may be, and neither the members of the commission nor any person executing the bonds shall be liable thereon. Such bonds shall not be a general obligation debt of this state and they shall contain on the face thereof a statement to such effect.

Source: Laws 1969, c. 309, § 13, p. 1111; Laws 1988, LB 632, § 7; Laws 2023, LB727, § 36.

Operative date June 7, 2023.

39-2213.01 Build Nebraska Act; highway construction projects; bonds; special obligations of state; payment; exempt from taxation and assessments; waiver of exemption.

The bonds issued pursuant to section 39-2203.01 shall be special obligations of the state payable solely and only from the State Highway Capital Improvement Fund and any other funds specifically pledged by the commission for such purpose, and neither the members of the commission nor any person executing the bonds shall be liable thereon. Such bonds shall not be a general obligation or debt of the state, and they shall contain on the face thereof a statement to such effect. Such bonds, and the transfer of and the income from any such bonds, shall be exempt from all taxation and assessments in this state. In the resolution authorizing the bonds, the commission may waive the exemption from federal income taxation for interest on the bonds.

Source: Laws 2023, LB727, § 31.

Operative date June 7, 2023.

39-2215 Highway Trust Fund; created; credit to the State Highway Capital Improvement Fund; allocation of remainder; investment; State Treasurer; transfer; disbursements.

(1) There is hereby created in the state treasury a special fund to be known as the Highway Trust Fund.

(2) Except as provided in subsection (4) of this section, all funds credited to the Highway Trust Fund pursuant to sections 66-489.02, 66-499, 66-4,140, 66-4,147, 66-6,108, and 66-6,109.02, and related penalties and interest, shall be allocated as provided in such sections.

(3) All sums of money credited to the Highway Trust Fund pursuant to subdivision (2)(c) of section 77-27,132 shall only be allocated to the Highway Cash Fund and shall not be used for the purposes described in subsection (4) of this section.

(4) The State Treasurer shall monthly credit, from those portions of the Highway Trust Fund otherwise allocated to the Highway Cash Fund, to the State Highway Capital Improvement Fund an amount equal to the sums of money credited to the Highway Trust Fund by subdivision (2)(c) of section 77-27,132, but in no event less than seventy million dollars annually. Such credit shall occur prior to allocating funds from the Highway Trust Fund to the Highway Cash Fund. Such credited funds shall only be derived from revenue closely related to the use of highways, including, but not limited to, motor vehicle fuel taxes, diesel fuel taxes, compressed fuel taxes, and alternative fuel fees related to highway use retained by the state, all motor vehicle registration fees retained by the state other than those fees credited to the State Recreation Road Fund, and other highway-user taxes, fees, and penalties imposed by state law. The remainder of such funds shall thereafter be credited to the Highway Cash Fund.

(5) All other motor vehicle fuel taxes, diesel fuel taxes, compressed fuel taxes, and alternative fuel fees related to highway use retained by the state, all motor vehicle registration fees retained by the state other than those fees credited to the State Recreation Road Fund pursuant to subdivision (3) of section 60-3,156, and other highway-user taxes imposed by state law and allocated to the Highway Trust Fund, except for the proceeds of the sales and use taxes derived from motor vehicles, trailers, and semitrailers credited to the fund pursuant to section 77-27,132, are hereby irrevocably pledged for the terms of the bonds issued prior to January 1, 1988, to the payment of the principal, interest, and redemption premium, if any, of such bonds as they mature and become due at maturity or prior redemption and for any reserves therefor and shall, as received by the State Treasurer, be deposited in the fund for such purpose.

(6) Of the money in the fund specified in subsection (5) of this section which is not required for the use specified in such subsection, (a) an amount to be determined annually by the Legislature through the appropriations process may be transferred to the Motor Fuel Tax Enforcement and Collection Cash Fund for use as provided in section 66-739 on a monthly or other less frequent basis as determined by the appropriation language, (b) an amount to be determined annually by the Legislature through the appropriations process shall be transferred to the License Plate Cash Fund as certified by the Director of Motor Vehicles, and (c) the remaining money may be used for the purchase for retirement of the bonds issued prior to January 1, 1988, in the open market.

(7) The State Treasurer shall monthly transfer, from the proceeds of the sales and use taxes credited to the Highway Trust Fund and any money remaining in the fund after the requirements of subsections (2) through (6) of this section are satisfied, thirty thousand dollars to the Grade Crossing Protection Fund.

(8) Except as provided in subsection (9) of this section, the balance of the Highway Trust Fund shall be allocated fifty-three and one-third percent, less the amount provided for in section 39-847.01, to the Department of Transportation, twenty-three and one-third percent, less the amount provided for in section 39-847.01, to the various counties for road purposes, and twenty-three and one-third percent to the various municipalities for street purposes. If bonds are issued pursuant to subsection (2) of section 39-2223, the portion allocated to the department shall be credited monthly to the Highway Restoration and Improvement Bond Fund, and if no bonds are issued pursuant to such subsection, the portion allocated to the department shall be credited monthly to the Highway Cash Fund. The portions allocated to the counties and municipalities

shall be credited monthly to the Highway Allocation Fund and distributed monthly as provided by law. Vehicles accorded prorated registration pursuant to section 60-3,198 shall not be included in any formula involving motor vehicle registrations used to determine the allocation and distribution of state funds for highway purposes to political subdivisions.

(9) If it is determined by December 20 of any year that a county will receive from its allocation of state-collected highway revenue and from any funds relinquished to it by municipalities within its boundaries an amount in such year which is less than such county received in state-collected highway revenue in calendar year 1969, based upon the 1976 tax rates for highway-user fuels and registration fees, the department shall notify the State Treasurer that an amount equal to the sum necessary to provide such county with funds equal to such county's 1969 highway allocation for such year shall be transferred to such county from the Highway Trust Fund. Such makeup funds shall be matched by the county as provided in sections 39-2501 to 39-2510. The balance remaining in the fund after such transfer shall then be reallocated as provided in subsection (8) of this section.

(10) The State Treasurer shall disburse the money in the Highway Trust Fund as directed by resolution of the commission. All disbursements from the fund shall be made by electronic funds transfer by the Director of Administrative Services. 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 and the earnings, if any, credited to the fund.

Source: Laws 1969, c. 309, § 15, p. 1111; Laws 1971, LB 53, § 3; Laws 1979, LB 571, § 2; Laws 1981, LB 22, § 8; Laws 1983, LB 118, § 2; Laws 1984, LB 1089, § 1; Laws 1986, LB 599, § 11; Laws 1988, LB 632, § 9; Laws 1989, LB 258, § 3; Laws 1990, LB 602, § 1; Laws 1991, LB 627, § 4; Laws 1992, LB 319, § 1; Laws 1994, LB 1066, § 25; Laws 1994, LB 1160, § 49; Laws 1995, LB 182, § 22; Laws 2002, LB 989, § 7; Laws 2002, Second Spec. Sess., LB 1, § 2; Laws 2003, LB 563, § 17; Laws 2004, LB 983, § 1; Laws 2004, LB 1144, § 3; Laws 2005, LB 274, § 228; Laws 2008, LB846, § 1; Laws 2011, LB170, § 1; Laws 2011, LB289, § 3; Laws 2017, LB339, § 159; Laws 2019, LB512, § 2; Laws 2021, LB509, § 2; Laws 2023, LB727, § 37.

Operative date June 7, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

39-2215.02 State Highway Capital Improvement Fund; pledged for bonds; disbursement; investment.

(1) If bonds are issued pursuant to subsection (3) of section 39-2223, seventy million dollars of the funds annually retained by the state and allocated to the State Highway Capital Improvement Fund pursuant to subsection (4) of section 39-2215 shall be hereby irrevocably pledged for the terms of the bonds to the payment of the principal, interest, and redemption premium, if any, of such bonds as they mature and become due at maturity or prior redemption and for any reserves therefor and shall, as received by the State Treasurer, be deposited

directly in the State Highway Capital Improvement Fund for such purpose. Of the money in the State Highway Capital Improvement Fund not required for such purpose, such remaining money may be used as prescribed in section 39-2704.

(2) The State Treasurer shall disburse the money in the State Highway Capital Improvement Fund as directed by resolution of the commission. All disbursements from the State Highway Capital Improvement Fund shall be made upon warrants drawn by the Director of Administrative Services. Any money in the State Highway Capital Improvement 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 2023, LB727, § 38.
Operative date June 7, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

39-2216 Legislature; holders of bonds; pledges not to repeal, diminish, or apply funds for other uses.

The Legislature hereby irrevocably pledges and agrees with the holders of the bonds issued under the Nebraska Highway Bond Act that so long as such bonds remain outstanding and unpaid it shall not repeal, diminish, or apply to any other purposes the motor vehicle fuel taxes, diesel fuel taxes, compressed fuel taxes, and alternative fuel fees related to highway use, motor vehicle registration fees, and such other highway-user taxes which may be imposed by state law and allocated to the fund, the State Highway Capital Improvement Fund, or the bond fund, as the case may be, if to do so would result in fifty percent of the amount deposited in the fund, the State Highway Capital Improvement Fund, or the bond fund in each year being less than the amount equal to the maximum annual principal and interest requirements of such bonds.

Source: Laws 1969, c. 309, § 16, p. 1112; Laws 1988, LB 632, § 11; Laws 1994, LB 1160, § 51; Laws 1995, LB 182, § 24; Laws 2011, LB289, § 5; Laws 2023, LB727, § 39.
Operative date June 7, 2023.

39-2222 Act, how cited.

Sections 39-2201 to 39-2226 shall be known and may be cited as the Nebraska Highway Bond Act.

Source: Laws 1969, c. 309, § 22, p. 1113; Laws 1988, LB 632, § 15; Laws 2023, LB727, § 40.
Operative date June 7, 2023.

39-2223 Bonds; issuance; amount.

(1) Under the authority granted by Article XIII, section 1, of the Constitution of Nebraska, the Legislature hereby authorizes the issuance of bonds in the principal amount of twenty million dollars in 1969 and in the principal amount of twenty million dollars on or before June 30, 1977, with the proceeds thereof to be used for the construction of highways in this state, the Legislature expressly finding that the need for such construction requires such action. Such

bonds shall in all respects comply with the provisions of Article XIII, section 1, of the Constitution of Nebraska.

(2) Under the authority granted by Article XIII, section 1, of the Constitution of Nebraska, the Legislature hereby authorizes after July 1, 1988, the issuance of bonds in a principal amount to be determined by the commission, not to exceed fifty million dollars. The outstanding principal amount of such bonds may exceed such limit if and to the extent that the commission determines that the issuance of advance refunding bonds under section 39-2226 in a principal amount greater than the bonds to be refunded would reduce the aggregate bond principal and interest requirements payable from the bond fund. The proceeds of such issues shall be used exclusively (a) for the construction, resurfacing, reconstruction, rehabilitation, and restoration of highways in this state, the Legislature expressly finding that the need for such construction and reconstruction work and the vital importance of the highway system to the welfare and safety of all Nebraskans requires such action, or (b) to eliminate or alleviate cash-flow problems resulting from the receipt of federal funds. Such bonds shall in all respects comply with the provisions of Article XIII, section 1, of the Constitution of Nebraska.

(3) Under the authority granted by Article XIII, section 1, of the Constitution of Nebraska, the Legislature hereby authorizes after July 1, 2023, in addition to the authority granted in subsections (1) and (2) of this section, the issuance of bonds in one or more series in an aggregate principal amount to be determined by the commission, not to exceed four hundred fifty million dollars. The outstanding principal amount of such bonds may exceed such limit if and to the extent that the commission determines that the issuance of advance refunding bonds under section 39-2226 in a principal amount greater than the bonds to be refunded would reduce the aggregate bond principal and interest requirements payable from the State Highway Capital Improvement Fund. The proceeds of such issues shall be used exclusively for purposes of the Build Nebraska Act, the Legislature expressly finding that the need for such construction and reconstruction work and the vital importance of the highway system to the welfare and safety of all Nebraskans requires such action. Such bonds shall in all respects comply with the provisions of Article XIII, section 1, of the Constitution of Nebraska.

Source: Laws 1969, c. 314, § 1, p. 1132; Laws 1975, LB 401, § 1; Laws 1988, LB 632, § 16; Laws 2023, LB727, § 41.
Operative date June 7, 2023.

39-2224 Bonds; sale; proceeds; appropriated to Highway Cash Fund or State Highway Capital Improvement Fund.

(1) The proceeds of the sale of bonds authorized by subsection (1) of section 39-2223 are hereby appropriated to the Highway Cash Fund of the Department of Transportation, for the biennium ending June 30, 1977, for expenditure for the construction of highways.

(2) The proceeds of the sale of bonds authorized by subsection (2) of section 39-2223 are hereby appropriated to the Highway Cash Fund of the Department of Transportation for expenditure for highway construction, resurfacing, reconstruction, rehabilitation, and restoration and for the elimination or alleviation of cash-flow problems resulting from the receipt of federal funds.

(3) The proceeds of the sale of bonds authorized by subsection (3) of section 39-2223 are hereby appropriated to the State Highway Capital Improvement Fund of the Department of Transportation for use pursuant to the Build Nebraska Act.

Source: Laws 1969, c. 314, § 2, p. 1132; Laws 1975, LB 401, § 2; Laws 1988, LB 632, § 17; Laws 2017, LB339, § 160; Laws 2023, LB727, § 42.
Operative date June 7, 2023.

Cross References

Build Nebraska Act, see section 39-2701.

ARTICLE 27

BUILD NEBRASKA ACT

Section

39-2703. State Highway Capital Improvement Fund; created; use; investment.
39-2704. Fund; uses enumerated.

39-2703 State Highway Capital Improvement Fund; created; use; investment.

(1) The State Highway Capital Improvement Fund is created. The fund shall consist of money credited to the fund pursuant to subsection (4) of section 39-2215, proceeds of bonds issued pursuant to subsection (3) of section 39-2223, and any other money as determined by the Legislature.

(2) 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.

(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. Investment earnings from investment of money in the fund shall be credited to the fund.

Source: Laws 2011, LB84, § 3; Laws 2023, LB727, § 43.
Operative date June 7, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

39-2704 Fund; uses enumerated.

(1) The money credited to the fund pursuant to subsection (4) of section 39-2215 shall be used for repayment of bonds issued pursuant to subsection (3) of section 39-2223. If any of the money credited to the fund pursuant to subsection (4) of section 39-2215 exceeds the amount of the annual principal and interest requirements for such bonds which are issued, such money shall be used as follows:

(a) At least twenty-five percent of the money shall be used, as determined by the department, for construction of the expressway system and federally designated high priority corridors; and

(b) The remaining money shall be used to pay for surface transportation projects of the highest priority as determined by the department.

(2) The proceeds of bonds issued pursuant to subsection (3) of section 39-2223 which are credited to the fund shall be used as follows:

(a) At least seventy-five percent of the proceeds from such bonds shall be used, as determined by the department, for construction of the expressway system and federally designated high priority corridors; and

(b) The remaining proceeds shall be used to pay for surface transportation projects of the highest priority as determined by the department.

Source: Laws 2011, LB84, § 4; Laws 2023, LB727, § 44.
Operative date June 7, 2023.

ARTICLE 28

TRANSPORTATION INNOVATION ACT

Section

39-2805. County Bridge Match Program; created; termination.

39-2805 County Bridge Match Program; created; termination.

(1) The County Bridge Match Program is created. The department shall administer the program using funds from the Transportation Infrastructure Bank Fund. Forty million dollars shall be expended for this program. The purpose of the program is to promote innovative solutions and provide additional funding to accelerate the repair and replacement of deficient bridges on the county road system. The department shall develop the program, including participation criteria and matching fund requirements for counties, in consultation with a statewide association representing county officials. Participation by counties in the program shall be voluntary.

(2) The County Bridge Match Program terminates on June 30, 2029.

Source: Laws 2016, LB960, § 5; Laws 2023, LB683, § 1; Laws 2023, LB818, § 10.

Termination date June 30, 2029.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB683, section 1, with LB818, section 10, to reflect all amendments.

Note: Changes made by LB683 became effective May 27, 2023. Changes made by LB818 became effective May 25, 2023.

CHAPTER 42

HOUSEHOLDS AND FAMILIES

Article.

9. Domestic Violence.

(a) Protection from Domestic Abuse Act. 42-903, 42-924.

ARTICLE 9

DOMESTIC VIOLENCE

(a) PROTECTION FROM DOMESTIC ABUSE ACT

Section

42-903. Terms, defined.

42-924. Protection order; when authorized; term; renewal; violation; penalty; construction of sections.

(a) PROTECTION FROM DOMESTIC ABUSE ACT

42-903 Terms, defined.

For purposes of the Protection from Domestic Abuse Act, unless the context otherwise requires:

(1) Abuse means the occurrence of one or more of the following acts between family or household members:

(a) Attempting to cause or intentionally and knowingly causing bodily injury with or without a dangerous instrument;

(b) Placing, by means of credible threat, another person in fear of bodily injury. For purposes of this subdivision, credible threat means a verbal or written threat, including a threat performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct that is made by a person with the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat. The present incarceration of the person making the threat shall not prevent the threat from being deemed a credible threat under this section; or

(c) Engaging in sexual contact or sexual penetration without consent as defined in section 28-318;

(2) Department means the Department of Health and Human Services;

(3) Family or household members includes spouses or former spouses, children, persons who are presently residing together or who have resided together in the past, persons who have a child in common whether or not they have been married or have lived together at any time, other persons related by consanguinity or affinity, and persons who are presently involved in a dating relationship with each other or who have been involved in a dating relationship with each other. For purposes of this subdivision, dating relationship means frequent, intimate associations primarily characterized by the expectation of

affectional or sexual involvement, but does not include a casual relationship or an ordinary association between persons in a business or social context;

(4) Household pet means any animal maintained for companionship or pleasure but does not include any animal kept primarily for commercial purposes or for consumption or any livestock animal as defined in section 54-902; and

(5) Law enforcement agency means the police department or town marshal in incorporated municipalities, the office of the sheriff in unincorporated areas, and the Nebraska State Patrol.

Source: Laws 1978, LB 623, § 3; Laws 1986, LB 448, § 1; Laws 1989, LB 330, § 5; Laws 1992, LB 1098, § 6; Laws 1993, LB 299, § 4; Laws 1996, LB 1044, § 103; Laws 1998, LB 218, § 18; Laws 2004, LB 613, § 12; Laws 2012, LB310, § 2; Laws 2017, LB289, § 13; Laws 2023, LB157, § 11.
Operative date September 2, 2023.

42-924 Protection order; when authorized; term; renewal; violation; penalty; construction of sections.

(1)(a) Any victim of domestic abuse may file a petition and affidavit for a protection order as provided in this section. Upon the filing of such a petition and affidavit in support thereof, the court may issue a protection order without bond granting the following relief:

(i) Enjoining the respondent from imposing any restraint upon the petitioner or upon the liberty of the petitioner;

(ii) Enjoining the respondent from threatening, assaulting, molesting, attacking, or otherwise disturbing the peace of the petitioner;

(iii) Enjoining the respondent from telephoning, contacting, or otherwise communicating with the petitioner;

(iv) Removing and excluding the respondent from the residence of the petitioner, regardless of the ownership of the residence;

(v) Ordering the respondent to stay away from any place specified by the court;

(vi) Awarding the petitioner temporary custody of any minor children not to exceed ninety days;

(vii) Enjoining the respondent from possessing or purchasing a firearm as defined in section 28-1201;

(viii) Directing that the petitioner have sole possession of any household pet owned, possessed, leased, kept, or held by the petitioner, the respondent, or any family or household member residing in the household of the petitioner or respondent;

(ix) Enjoining the respondent from coming into contact with, harming, or killing any household pet owned, possessed, leased, kept, or held by the petitioner, the respondent, or any family or household member of the petitioner or respondent; or

(x) Ordering such other relief deemed necessary to provide for the safety and welfare of the petitioner and any designated family or household member.

(b) If sole possession of a household pet is ordered by a court pursuant to subdivision (1)(a)(viii) of this section, such possession shall be for the duration

of the protection order or until further order of the court. The grant of sole possession of a household pet under such subdivision is not intended to permanently determine ownership of such household pet. The petitioner shall not permanently transfer, sell, or dispose of a household pet placed in the petitioner's possession without prior court approval, except that court approval shall not be required in cases where humane euthanasia of a seriously ill or injured household pet is recommended by a licensed veterinarian.

(c) The petition for a protection order shall state the events and dates or approximate dates of acts constituting the alleged domestic abuse, including the most recent and most severe incident or incidents.

(d) The protection order shall specify to whom relief under this section was granted.

(2) Petitions for protection orders shall be filed with the clerk of the district court, and the proceeding may be heard by the county court or the district court as provided in section 25-2740. A petition for a protection order may not be withdrawn except upon order of the court.

(3)(a) A protection order shall specify that it is effective for a period of one year and, if the order grants temporary custody, the number of days of custody granted to the petitioner unless otherwise modified by the court.

(b)(i) Any victim of domestic abuse may file a petition and affidavit to renew a protection order. Such petition and affidavit for renewal shall be filed any time within forty-five days before the expiration of the previous protection order, including the date the order expires.

(ii) A protection order may be renewed on the basis of the petitioner's affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason for the requested renewal if:

(A) The petitioner seeks no modification of the order; and

(B)(I) The respondent has been properly served with notice of the petition for renewal and notice of hearing and fails to appear at the hearing; or

(II) The respondent indicates that he or she does not contest the renewal.

(iii) Such renewed order shall specify that it is effective for a period of one year to commence on the first calendar day following the expiration of the previous order or on the calendar day the court grants the renewal if such day is subsequent to the first calendar day after expiration of the previous order and, if the court grants temporary custody, the number of days of custody granted to the petitioner unless otherwise modified by the court.

(4) Any person, except the petitioner, who knowingly violates a protection order issued pursuant to this section or section 42-931 after service or notice as described in subsection (2) of section 42-926 shall be guilty of a Class I misdemeanor, except that any person convicted of violating such order who has a prior conviction for violating a protection order shall be guilty of a Class IV felony.

(5) If there is any conflict between sections 42-924 to 42-926 and any other provision of law, sections 42-924 to 42-926 shall govern.

Source: Laws 1978, LB 623, § 24; Laws 1984, LB 276, § 3; Laws 1989, LB 330, § 7; Laws 1992, LB 1098, § 7; Laws 1993, LB 299, § 5; Laws 1997, LB 229, § 34; Laws 1998, LB 218, § 20; Laws 2002,

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HOUSEHOLDS AND FAMILIES

LB 82, § 17; Laws 2012, LB310, § 3; Laws 2017, LB289, § 14;
Laws 2019, LB532, § 3; Laws 2023, LB157, § 12.
Operative date September 2, 2023.

**CHAPTER 43
INFANTS AND JUVENILES**

Article.

- 2. Juvenile Code.
 - (f) Adjudication Procedures. 43-279, 43-280.
 - (g) Disposition. 43-286.
 - (i) Miscellaneous Provisions. 43-2,108.
- 13. Foster Care.
 - (a) Foster Care Review Act. 43-1311.03.
- 45. Young Adult Bridge to Independence Act. 43-4502 to 43-4514.

**ARTICLE 2
JUVENILE CODE**

(f) ADJUDICATION PROCEDURES

Section

- 43-279. Juvenile violator or juvenile in need of special supervision; rights of parties; proceedings.
- 43-280. Adjudication; effect; use of in-court statements.

(g) DISPOSITION

- 43-286. Juvenile violator or juvenile in need of special supervision; disposition; violation of probation, supervision, or court order; procedure; discharge; procedure; notice; hearing; individualized reentry plan.

(i) MISCELLANEOUS PROVISIONS

- 43-2,108. Juvenile court; record; case file; how kept; certain reports and records not open to inspection without order of court; exceptions; information accessible through criminal justice information system.

(f) ADJUDICATION PROCEDURES

43-279 Juvenile violator or juvenile in need of special supervision; rights of parties; proceedings.

(1) The adjudication portion of hearings shall be conducted before the court without a jury, applying the customary rules of evidence in use in trials without a jury. When the petition alleges the juvenile to be within the provisions of subdivision (1), (2), (3)(b), or (4) of section 43-247 and the juvenile or his or her parent, guardian, or custodian appears with or without counsel, the court shall inform the parties:

(a) Of the nature of the proceedings and the possible consequences or dispositions pursuant to sections 43-284 to 43-286, 43-289, and 43-290 that may apply to the juvenile’s case following an adjudication of jurisdiction;

(b) Of such juvenile’s right to counsel as provided in sections 43-272 and 43-273;

(c) Of the privilege against self-incrimination by advising the juvenile, parent, guardian, or custodian that the juvenile may remain silent concerning the charges against the juvenile and that anything said may be used against the juvenile;

(d) Of the right to confront anyone who testifies against the juvenile and to cross-examine any persons who appear against the juvenile;

(e) Of the right of the juvenile to testify and to compel other witnesses to attend and testify in his or her own behalf;

(f) Of the right of the juvenile to a speedy adjudication hearing; and

(g) Of the right to appeal and have a transcript for such purpose.

After giving such warnings and admonitions, the court may accept an in-court admission or answer of no contest by the juvenile of all or any part of the allegations in the petition if the court has determined from examination of the juvenile and those present that such admission or answer of no contest is intelligently, voluntarily, and understandingly made and with an affirmative waiver of rights and that a factual basis for such admission or answer of no contest exists. The waiver of the right to counsel shall satisfy section 43-3102. The court may base its adjudication provided in subsection (2) of this section on such admission or answer of no contest.

(2) If the juvenile denies the petition or stands mute the court shall first allow a reasonable time for preparation if needed and then consider only the question of whether the juvenile is a person described by section 43-247. After hearing the evidence on such question, the court shall make a finding and adjudication, to be entered on the records of the court, whether or not the juvenile is a person described by subdivision (1), (2), (3)(b), or (4) of section 43-247 based upon proof beyond a reasonable doubt. If an Indian child is involved, the standard of proof shall be in compliance with the Nebraska Indian Child Welfare Act, if applicable.

(3) If the court shall find that the juvenile named in the petition is not within the provisions of section 43-247, it shall dismiss the case. If the court finds that the juvenile named in the petition is such a juvenile, it shall make and enter its findings and adjudication accordingly, designating which subdivision or subdivisions of section 43-247 such juvenile is within; the court shall allow a reasonable time for preparation if needed and then proceed to an inquiry into the proper disposition to be made of such juvenile.

Source: Laws 1981, LB 346, § 35; Laws 1982, LB 787, § 15; Laws 1985, LB 255, § 34; Laws 1985, LB 447, § 22; Laws 1998, LB 1073, § 23; Laws 2016, LB894, § 17; Laws 2023, LB50, § 21.
Effective date September 2, 2023.

Cross References

Acceptance of plea, finding by court required, see section 29-401.
Nebraska Indian Child Welfare Act, see section 43-1501.

43-280 Adjudication; effect; use of in-court statements.

No adjudication by the juvenile court upon the status of a juvenile shall be deemed a conviction nor shall the adjudication operate to impose any of the civil disabilities ordinarily resulting from conviction. The adjudication and the evidence given in the court shall not operate to disqualify such juvenile in any future civil or military service application or appointment. Any admission, answer of no contest, confession, or statement made by the juvenile in court and admitted by the court, in a proceeding under section 43-279, shall be inadmissible against such juvenile in any criminal or civil proceeding but may

be considered by a court as part of a presentence investigation involving a subsequent transaction.

Source: Laws 1981, LB 346, § 36; Laws 2023, LB50, § 22.
Effective date September 2, 2023.

Cross References

Juvenile adjudication, inadmissible for purpose of attacking credibility of witness, see section 27-609.

(g) DISPOSITION

43-286 Juvenile violator or juvenile in need of special supervision; disposition; violation of probation, supervision, or court order; procedure; discharge; procedure; notice; hearing; individualized reentry plan.

(1) When any juvenile is adjudicated to be a juvenile described in subdivision (1), (2), or (4) of section 43-247:

(a) The court may continue the dispositional portion of the hearing, from time to time upon such terms and conditions as the court may prescribe, including an order of restitution of any property stolen or damaged or an order requiring the juvenile to participate in restorative justice programs or community service programs, if such order is in the interest of the juvenile’s reformation or rehabilitation, and, subject to the further order of the court, may:

(i) Place the juvenile on probation subject to the supervision of a probation officer; or

(ii) Permit the juvenile to remain in his or her own home or be placed in a suitable family home or institution, subject to the supervision of the probation officer;

(b) When it is alleged that the juvenile has exhausted all levels of probation supervision and options for community-based services and section 43-251.01 has been satisfied, a motion for commitment to a youth rehabilitation and treatment center may be filed and proceedings held as follows:

(i) The motion shall set forth specific factual allegations that support the motion and a copy of such motion shall be served on all persons required to be served by sections 43-262 to 43-267;

(ii) The Office of Juvenile Services shall be served with a copy of such motion and shall be a party to the case for all matters related to the juvenile’s commitment to, placement with, or discharge from the Office of Juvenile Services; and

(iii) The juvenile shall be entitled to a hearing before the court to determine the validity of the allegations. At such hearing the burden is upon the state by a preponderance of the evidence to show that:

(A) All levels of probation supervision have been exhausted;

(B) All options for community-based services have been exhausted; and

(C) Placement at a youth rehabilitation and treatment center is a matter of immediate and urgent necessity for the protection of the juvenile or the person or property of another or if it appears that such juvenile is likely to flee the jurisdiction of the court;

(c) After the hearing, the court may, as a condition of an order of intensive supervised probation, commit such juvenile to the Office of Juvenile Services for placement at a youth rehabilitation and treatment center operated in

compliance with state law. Upon commitment by the court to the Office of Juvenile Services, the court shall immediately notify the Office of Juvenile Services of the commitment. Intensive supervised probation for purposes of this subdivision means that the Office of Juvenile Services shall be responsible for the care and custody of the juvenile until the Office of Juvenile Services discharges the juvenile from commitment to the Office of Juvenile Services. Upon discharge of the juvenile, the court shall hold a review hearing on the conditions of probation and enter any order allowed under subdivision (1)(a) of this section;

(d) The Office of Juvenile Services shall notify those required to be served by sections 43-262 to 43-267, all interested parties, and the committing court of the pending discharge of a juvenile from the youth rehabilitation and treatment center sixty days prior to discharge and again in every case not less than thirty days prior to discharge. Upon notice of pending discharge by the Office of Juvenile Services, the court shall set a continued disposition hearing in anticipation of reentry. The Office of Juvenile Services shall work in collaboration with the Office of Probation Administration in developing an individualized reentry plan for the juvenile as provided in section 43-425. The Office of Juvenile Services shall provide a copy of the individualized reentry plan to the juvenile, the juvenile's attorney, and the county attorney or city attorney prior to the continued disposition hearing. At the continued disposition hearing, the court shall review and approve or modify the individualized reentry plan, place the juvenile under probation supervision, and enter any other order allowed by law. No hearing is required if all interested parties stipulate to the individualized reentry plan by signed motion. In such a case, the court shall approve the conditions of probation, approve the individualized reentry plan, and place the juvenile under probation supervision; and

(e) The Office of Juvenile Services is responsible for transportation of the juvenile to and from the youth rehabilitation and treatment center. The Office of Juvenile Services may contract for such services. A plan for a juvenile's transport to return to the community shall be a part of the individualized reentry plan. The Office of Juvenile Services may approve family to provide such transport when specified in the individualized reentry plan.

(2) When any juvenile is found by the court to be a juvenile described in subdivision (3)(b) of section 43-247, the court may enter such order as it is empowered to enter under subdivision (1)(a) of this section.

(3) When any juvenile is adjudicated to be a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247, the court may order the juvenile to be assessed for referral to participate in a restorative justice program. Factors that the judge may consider for such referral include, but are not limited to: The juvenile's age, intellectual capacity, and living environment; the ages of others who were part of the offense; the age and capacity of the victim; and the nature of the case.

(4) When a juvenile is placed on probation and a probation officer has reasonable cause to believe that such juvenile has committed a violation of a condition of his or her probation, the probation officer shall take appropriate measures as provided in section 43-286.01.

(5)(a) When a juvenile is placed on probation or under the supervision of the court and it is alleged that the juvenile is again a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247, a petition may be filed and

the same procedure followed and rights given at a hearing on the original petition. If an adjudication is made that the allegations of the petition are true, the court may make any disposition authorized by this section for such adjudications and the county attorney may file a motion to revoke the juvenile's probation.

(b) When a juvenile is placed on probation or under the supervision of the court for conduct under subdivision (1), (2), (3)(b), or (4) of section 43-247 and it is alleged that the juvenile has violated a term of probation or supervision or that the juvenile has violated an order of the court, a motion to revoke probation or supervision or to change the disposition may be filed and proceedings held as follows:

(i) The motion shall set forth specific factual allegations of the alleged violations and a copy of such motion shall be served on all persons required to be served by sections 43-262 to 43-267;

(ii) The juvenile shall be entitled to a hearing before the court to determine the validity of the allegations. At such hearing the juvenile shall be entitled to those rights relating to counsel provided by section 43-272 and those rights relating to detention provided by sections 43-254 to 43-256. The juvenile shall also be entitled to speak and present documents, witnesses, or other evidence on his or her own behalf. He or she may confront persons who have given adverse information concerning the alleged violations, may cross-examine such persons, and may show that he or she did not violate the conditions of his or her probation or supervision or an order of the court or, if he or she did, that mitigating circumstances suggest that the violation does not warrant revocation of probation or supervision or a change of disposition. The hearing shall be held within a reasonable time after the juvenile is taken into custody;

(iii) The hearing shall be conducted in an informal manner and shall be flexible enough to consider evidence, including letters, affidavits, and other material, that would not be admissible in an adversarial criminal trial;

(iv) The juvenile shall not be confined, detained, or otherwise significantly deprived of his or her liberty pursuant to the filing of a motion described in this section unless the requirements of subdivision (5) of section 43-251.01 and section 43-260.01 have been met. In all cases when the requirements of subdivision (5) of section 43-251.01 and section 43-260.01 have been met and the juvenile is confined, detained, or otherwise significantly deprived of his or her liberty as a result of his or her alleged violation of probation, supervision, or a court order, the juvenile shall be given a preliminary hearing. If, as a result of such preliminary hearing, probable cause is found to exist, the juvenile shall be entitled to a hearing before the court in accordance with this subsection;

(v) If the juvenile is found by the court to have violated the terms of his or her probation or supervision or an order of the court, the court may modify the terms and conditions of the probation, supervision, or other court order, extend the period of probation, supervision, or other court order, or enter any order of disposition that could have been made at the time the original order was entered; and

(vi) In cases when the court revokes probation, supervision, or other court order, it shall enter a written statement as to the evidence relied on and the reasons for revocation.

(6)(a) Except as provided in subdivision (6)(b) of this section, the court shall not change a disposition unless the court finds that the juvenile has violated a

term or condition of probation or supervision or an order of the court and the procedures in subdivision (5)(b) of this section have been satisfied.

(b) Upon motion of the juvenile, the court may modify the terms or conditions of probation or supervision or modify a dispositional order if:

(i) All parties stipulate to the particular modification; and

(ii) The juvenile has consulted with counsel or has waived counsel. Any waiver must be particular to the modification and shall comply with section 43-3102.

(7) Costs incurred on behalf of a juvenile under this section shall be paid as provided in section 43-290.01.

(8) When any juvenile is adjudicated to be a juvenile described in subdivision (4) of section 43-247, the juvenile court shall within thirty days of adjudication transmit to the Director of Motor Vehicles an abstract of the court record of adjudication.

Source: Laws 1981, LB 346, § 42; Laws 1982, LB 787, § 18; Laws 1987, LB 638, § 6; Laws 1989, LB 182, § 13; Laws 1994, LB 988, § 21; Laws 1996, LB 1044, § 134; Laws 1998, LB 1073, § 26; Laws 2000, LB 1167, § 21; Laws 2011, LB463, § 4; Laws 2012, LB972, § 3; Laws 2013, LB561, § 23; Laws 2014, LB464, § 20; Laws 2017, LB8, § 2; Laws 2018, LB670, § 7; Laws 2019, LB595, § 31; Laws 2020, LB1148, § 10; Laws 2023, LB157, § 13.
Operative date September 2, 2023.

Cross References

Juvenile probation officers, appointment, see section 29-2253.

Placements and commitments, restrictions, see section 43-251.01.

(i) MISCELLANEOUS PROVISIONS

43-2,108 Juvenile court; record; case file; how kept; certain reports and records not open to inspection without order of court; exceptions; information accessible through criminal justice information system.

(1) The juvenile court judge shall keep a record of all proceedings of the court in each case, including appearances, findings, orders, decrees, and judgments, and any evidence which he or she feels it is necessary and proper to record. The case file shall contain the complaint or petition and subsequent pleadings. The case file may be maintained as an electronic document through the court's electronic case management system, on microfilm, or in a paper volume and disposed of when determined by the State Records Administrator pursuant to the Records Management Act.

(2) Except as provided in subsections (3) and (4) of this section, the medical, psychological, psychiatric, and social welfare reports and the records of juvenile probation officers, as they relate to individual proceedings in the juvenile court, shall not be open to inspection, without order of the court. Such records shall be made available to a district court of this state or the District Court of the United States on the order of a judge thereof for the confidential use of such judge or his or her probation officer as to matters pending before such court but shall not be made available to parties or their counsel; and such district court records shall be made available to a county court or separate juvenile court upon request of the county judge or separate juvenile judge for the

confidential use of such judge and his or her probation officer as to matters pending before such court, but shall not be made available by such judge to the parties or their counsel.

(3) As used in this section, confidential record information means all docket records, other than the pleadings, orders, decrees, and judgments; case files and records; reports and records of probation officers; and information supplied to the court of jurisdiction in such cases by any individual or any public or private institution, agency, facility, or clinic, which is compiled by, produced by, and in the possession of any court. In all cases under subdivision (3)(a) of section 43-247, access to all confidential record information in such cases shall be granted only as follows: (a) The court of jurisdiction may, subject to applicable federal and state regulations, disseminate such confidential record information to any individual, or public or private agency, institution, facility, or clinic which is providing services directly to the juvenile and such juvenile's parents or guardian and his or her immediate family who are the subject of such record information; (b) the court of jurisdiction may disseminate such confidential record information, with the consent of persons who are subjects of such information, or by order of such court after showing of good cause, to any law enforcement agency upon such agency's specific request for such agency's exclusive use in the investigation of any protective service case or investigation of allegations under subdivision (3)(a) of section 43-247, regarding the juvenile or such juvenile's immediate family, who are the subject of such investigation; and (c) the court of jurisdiction may disseminate such confidential record information to any court, which has jurisdiction of the juvenile who is the subject of such information upon such court's request.

(4) The court shall provide copies of predispositional reports and evaluations of the juvenile to the juvenile's attorney and the county attorney or city attorney prior to any hearing in which the report or evaluation will be relied upon.

(5) In all cases under sections 43-246.01 and 43-247, the office of Inspector General of Nebraska Child Welfare may submit a written request to the probation administrator for access to the records of juvenile probation officers in a specific case. Upon a juvenile court order, the records shall be provided to the Inspector General within five days for the exclusive use in an investigation pursuant to the Office of Inspector General of Nebraska Child Welfare Act. Nothing in this subsection shall prevent the notification of death or serious injury of a juvenile to the Inspector General of Nebraska Child Welfare pursuant to section 43-4318 as soon as reasonably possible after the Office of Probation Administration learns of such death or serious injury.

(6) In all cases under sections 43-246.01 and 43-247, the juvenile court shall disseminate confidential record information to the Foster Care Review Office pursuant to the Foster Care Review Act.

(7) Nothing in subsections (3), (5), and (6) of this section shall be construed to restrict the dissemination of confidential record information between any individual or public or private agency, institute, facility, or clinic, except any such confidential record information disseminated by the court of jurisdiction pursuant to this section shall be for the exclusive and private use of those to whom it was released and shall not be disseminated further without order of such court.

(8)(a) Any records concerning a juvenile court petition filed pursuant to subdivision (3)(c) of section 43-247 shall remain confidential except as may be

provided otherwise by law. Such records shall be accessible to (i) the juvenile except as provided in subdivision (b) of this subsection, (ii) the juvenile's counsel, (iii) the juvenile's parent or guardian, and (iv) persons authorized by an order of a judge or court.

(b) Upon application by the county attorney or by the director of the facility where the juvenile is placed and upon a showing of good cause therefor, a judge of the juvenile court having jurisdiction over the juvenile or of the county where the facility is located may order that the records shall not be made available to the juvenile if, in the judgment of the court, the availability of such records to the juvenile will adversely affect the juvenile's mental state and the treatment thereof.

(9) Nothing in subsection (3), (5), or (6) of this section shall be construed to restrict the immediate dissemination of a current picture and information about a child who is missing from a foster care or out-of-home placement. Such dissemination by the Office of Probation Administration shall be authorized by an order of a judge or court. Such information shall be subject to state and federal confidentiality laws and shall not include that the child is in the care, custody, or control of the Department of Health and Human Services or under the supervision of the Office of Probation Administration.

(10) Any juvenile court order that places a juvenile on electronic monitoring shall also state whether the data from such electronic monitoring device shall be made available to a law enforcement agency immediately upon request by such agency. For any juvenile subject to the supervision of a probation officer, the name of the juvenile, the name of the juvenile's probation officer, and any terms of probation included in a juvenile court order otherwise open to inspection shall be provided to the Nebraska Commission on Law Enforcement and Criminal Justice which shall provide access to such information to law enforcement agencies through the state's criminal justice information system.

Source: Laws 1981, LB 346, § 65; Laws 1997, LB 622, § 73; Laws 2014, LB464, § 25; Laws 2015, LB347, § 2; Laws 2016, LB954, § 1; Laws 2017, LB225, § 4; Laws 2018, LB193, § 79; Laws 2023, LB50, § 23.

Effective date September 2, 2023.

Cross References

Foster Care Review Act, see section 43-1318.
Office of Inspector General of Nebraska Child Welfare Act, see section 43-4301.
Records Management Act, see section 84-1220.

**ARTICLE 13
 FOSTER CARE**

(a) FOSTER CARE REVIEW ACT

Section

43-1311.03. Written independent living transition proposal; development; contents; transition team; department; duties; information regarding Young Adult Bridge to Independence Act; notice; contents; out-of-home placement; hearing, when held.

(a) FOSTER CARE REVIEW ACT

43-1311.03 Written independent living transition proposal; development; contents; transition team; department; duties; information regarding Young

Adult Bridge to Independence Act; notice; contents; out-of-home placement; hearing, when held.

(1) When a child placed in foster care turns fourteen years of age or enters foster care and is at least fourteen years of age, a written independent living transition proposal shall be developed by the Department of Health and Human Services at the direction and involvement of the child to prepare for the transition from foster care to successful adulthood. Any revision or addition to such proposal shall also be made in consultation with the child. The transition proposal shall be personalized based on the child's needs and shall describe the services needed for the child to transition to a successful adulthood as provided in the Nebraska Strengthening Families Act. The transition proposal shall include, but not be limited to, the following needs and the services needed for the child to transition to a successful adulthood as provided in the Nebraska Strengthening Families Act:

- (a) Education;
- (b) Employment services and other workforce support;
- (c) Health and health care coverage, including the child's potential eligibility for medicaid coverage under the federal Patient Protection and Affordable Care Act, 42 U.S.C. 1396a(a)(10)(A)(i)(IX), as such act and section existed on January 1, 2013;
- (d) Behavioral health treatment and support needs and access to such treatment and support;
- (e) Financial assistance, including education on credit card financing, banking, and other services;
- (f) Housing;
- (g) Relationship development and permanent connections;
- (h) Adult services, if the needs assessment indicates that the child is reasonably likely to need or be eligible for services or other support from the adult services system; and
- (i) Information, planning, and assistance to obtain a driver's license as allowed under state law and consistent with subdivision (9)(b)(iv) of this section, including, but not limited to, providing the child with a copy of a driver's manual, identifying driver safety courses and resources to access a driver safety course, and identifying potential means by which to access a motor vehicle for such purposes.

(2) The transition proposal shall be developed and frequently reviewed by the department in collaboration with the child's transition team. The transition team shall be comprised of the child, the child's caseworker, the child's guardian ad litem, individuals selected by the child, and individuals who have knowledge of services available to the child. As provided in the Nebraska Strengthening Families Act, one of the individuals selected by the child may be designated as the child's advisor and, as necessary, advocate for the child with respect to the application of the reasonable and prudent parent standard and for the child on normalcy activities. The department may reject an individual selected by the child to be a member of the team if the department has good cause to believe the individual would not act in the best interests of the child.

(3) The transition proposal shall be considered a working document and shall be, at the least, updated for and reviewed at every permanency or review

hearing by the court. The court shall determine whether the transition proposal includes the services needed to assist the child to make the transition from foster care to a successful adulthood.

(4) The transition proposal shall document what efforts were made to involve and engage the child in the development of the transition proposal and any revisions or additions to the transition proposal. As provided in the Nebraska Strengthening Families Act, the court shall ask the child, in an age or developmentally appropriate manner, about his or her involvement in the development of the transition proposal and any revisions or additions to such proposal. As provided in the Nebraska Strengthening Families Act, the court shall make a finding as to the child's involvement in the development of the transition proposal and any revisions or additions to such proposal.

(5) The final transition proposal prior to the child's leaving foster care shall specifically identify how the need for housing will be addressed.

(6) If the child is interested in pursuing higher education, the transition proposal shall provide for the process in applying for any applicable state, federal, or private aid.

(7) The department shall provide without cost a copy of any consumer report as defined in 15 U.S.C. 1681a(d), as such section existed on January 1, 2016, pertaining to the child each year until the child is discharged from care and assistance, including when feasible, from the child's guardian ad litem, in interpreting and resolving any inaccuracies in the report as provided in the Nebraska Strengthening Families Act.

(8)(a) Any child who is adjudicated to be a juvenile described in (i) subdivision (3)(a) of section 43-247 and who is in an out-of-home placement or (ii) subdivision (8) of section 43-247 and whose guardianship or state-funded adoption assistance agreement was disrupted or terminated after the child had attained the age of sixteen years, shall receive information regarding the Young Adult Bridge to Independence Act and the bridge to independence program available under the act.

(b) The department shall create a clear and developmentally appropriate written notice discussing the rights of eligible young adults to participate in the program. The notice shall include information about eligibility and requirements to participate in the program, the extended services and support that young adults are eligible to receive under the program, and how young adults can be a part of the program. The notice shall also include information about the young adult's right to request a client-directed attorney to represent the young adult pursuant to section 43-4510 and the benefits and role of an attorney.

(c) The department shall disseminate this information to any child who was adjudicated to be a juvenile described in subdivision (3)(a) of section 43-247 and who is in an out-of-home placement at sixteen years of age and any child who was adjudicated to be a juvenile under subdivision (8) of section 43-247 and whose guardianship or state-funded adoption assistance agreement was disrupted or terminated after the child had attained the age of sixteen years. The department shall disseminate this information to any such child yearly thereafter until such child attains the age of nineteen years and not later than ninety days prior to the child's last court review before attaining nineteen years of age or being discharged from foster care to independent living. In addition to providing the written notice, not later than ninety days prior to the child's last

court review before attaining nineteen years of age or being discharged from foster care to independent living, a representative of the department shall explain the information contained in the notice to the child in person and the timeline necessary to avoid a lapse in services and support.

(d)(i) On and after January 1, 2025, a child adjudicated to be a juvenile as described in subdivision (1), (2), or (3)(b) of section 43-247 and who is in a court-ordered out-of-home placement in the six months prior to attaining nineteen years of age shall receive information regarding the Young Adult Bridge to Independence Act and the bridge to independence program available under the act. The Office of Probation Administration shall identify any such juvenile and provide the juvenile with information regarding the Young Adult Bridge to Independence Act and the bridge to independence program available under the act.

(ii) Any party to such juvenile's court case, or the court upon its own motion, may request a hearing in the six months prior to the juvenile attaining nineteen years of age for the court to consider whether it is necessary for the juvenile to remain in the court-ordered out-of-home placement if the requesting party or the court believes it would be contrary to the juvenile's welfare to return to the family home. The following factors may guide the court in finding whether or not return to the family home would be contrary to the juvenile's welfare:

(A) Whether the juvenile is disconnected from family support that would assist the juvenile in transitioning to adulthood;

(B) Whether the juvenile faces the risk of homelessness upon closure of the juvenile court case; or

(C) Whether the Office of Probation Administration has made reasonable efforts to return the juvenile to the family home prior to the juvenile's nineteenth birthday.

(iii) The court shall set forth its finding in a written order. If the court finds that return to the family home would be contrary to the juvenile's welfare, the Office of Probation Administration shall notify the Department of Health and Human Services within ten days after such finding is made. As soon as practicable thereafter and prior to the child's nineteenth birthday, a representative of the department shall explain the information contained in the written notice described in this subsection to the juvenile in person and the timeline necessary to avoid a lapse in services and support. If the juvenile remains in a court-ordered out-of-home placement upon attaining nineteen years of age pursuant to a court order as described in section 43-4504, the department shall proceed pursuant to sections 43-4506 and 43-4508.

(iv) A juvenile with a current pending motion to revoke probation before the court at the time of the hearing shall not be eligible for the Young Adult Bridge to Independence Act.

(9)(a) The department shall provide the child with the documents, information, records, and other materials described in subdivision (9)(b) of this section, (i) if the child is leaving foster care, on or before the date the child reaches eighteen or nineteen years of age or twenty-one years of age if the child participates in the bridge to independence program, and (ii) at the age or as otherwise prescribed in subdivision (9)(b) of this section.

(b) The department shall provide the child with:

(i) A certified copy of the child's birth certificate and facilitate securing a federal social security card when the child is eligible for such card;

(ii) Health insurance information and all documentation required for enrollment in medicaid coverage for former foster care children as available under the federal Patient Protection and Affordable Care Act, 42 U.S.C. 1396a(a)(10)(A)(i)(IX), as such act and section existed on January 1, 2013;

(iii) A copy of the child's medical records;

(iv) A driver's license or identification card issued by a state in accordance with the requirements of section 202 of the REAL ID Act of 2005, as such section existed on January 1, 2016, and when requested by a child fourteen years of age or older, all documents necessary to obtain such license or card;

(v) A copy of the child's educational records;

(vi) A credit report check;

(vii) Contact information, with permission, for family members, including siblings, with whom the child can maintain a safe and appropriate relationship, and other supportive adults;

(viii) A list of local community resources, including, but not limited to, support groups, health clinics, mental and behavioral health and substance abuse treatment services and support, pregnancy and parenting resources, and employment and housing agencies;

(ix) Written information, including, but not limited to, contact information, for disability resources or benefits that may assist the child as an adult, specifically including information regarding state programs established pursuant to 42 U.S.C. 677, as such section existed on January 1, 2016, and disability benefits, including supplemental security income pursuant to 42 U.S.C. 1382 et seq., as such sections existed on January 1, 2016, or social security disability insurance pursuant to 42 U.S.C. 423, as such section existed on January 1, 2016, if the child may be eligible as an adult;

(x) An application for public assistance and information on how to access the system to determine public assistance eligibility;

(xi) A letter prepared by the department that verifies the child's name and date of birth, dates the child was in foster care, and whether the child was in foster care on his or her eighteenth, nineteenth, or twenty-first birthday and enrolled in medicaid while in foster care;

(xii) Written information about the child's Indian heritage or tribal connection, if any; and

(xiii) Written information on how to access personal documents in the future.

(c) All fees associated with securing the certified copy of the child's birth certificate or obtaining a driver's license or a state identification card shall be waived by the state.

(d) The transition proposal shall document that the child was provided all of the documents listed in this subsection. The court shall make a finding as to whether the child has received the documents as part of the independence hearing as provided in subdivision (2)(d) of section 43-285.

Source: Laws 2011, LB177, § 8; Laws 2013, LB216, § 17; Laws 2013, LB269, § 3; Laws 2014, LB853, § 25; Laws 2016, LB746, § 19;

YOUNG ADULT BRIDGE TO INDEPENDENCE ACT

§ 43-4504

Laws 2019, LB600, § 2; Laws 2020, LB219, § 1; Laws 2023, LB50, § 24.

Effective date September 2, 2023.

Cross References

Nebraska Strengthening Families Act, see section 43-4701.

Young Adult Bridge to Independence Act, see section 43-4501.

ARTICLE 45

YOUNG ADULT BRIDGE TO INDEPENDENCE ACT

Section

- 43-4502. Purpose of act.
- 43-4504. Bridge to independence program; availability.
- 43-4505. Extended services and support; services enumerated.
- 43-4508. Department; filing with juvenile court; contents; jurisdiction of court; bridge to independence program file; hearing for permanency review; appointment of hearing officer; department; duties; court review services and support; confidentiality; waiver.
- 43-4510. Court-appointed attorney; continuation of guardian ad litem or defense counsel; independence coordinator; duties; notice; court appointed special advocate volunteer.
- 43-4511.01. Participation in extended guardianship or bridge to independence program; participation in extended adoption assistance or bridge to independence program; choice of participant; notice; contents; department; duties.
- 43-4514. Department; submit amended state plan amendment to seek federal funding; department; duties; rules and regulations; references to United States Code; how construed.

43-4502 Purpose of act.

The purpose of the Young Adult Bridge to Independence Act is to provide support for former state or tribal wards, and for other youth who are exiting state care, who are disconnected from family support, and who are at risk of homelessness, as they transition to adulthood, become self-sufficient, and create permanent relationships. The bridge to independence program shall at all times recognize and respect the autonomy of the young adult. Nothing in the Young Adult Bridge to Independence Act shall be construed to abrogate any other rights that a person who has attained eighteen or nineteen years of age may have as an adult under state or tribal law.

Source: Laws 2013, LB216, § 2; Laws 2014, LB853, § 31; Laws 2020, LB848, § 3; Laws 2023, LB50, § 25.
Effective date September 2, 2023.

43-4504 Bridge to independence program; availability.

The bridge to independence program is available, on a voluntary basis, to a young adult:

- (1) Who has attained the age of eligibility;
- (2) Who was adjudicated to be a juvenile described in:
 - (a) Subdivision (3)(a) of section 43-247 or the equivalent under tribal law;
 - (b) Subdivision (8) of section 43-247 or the equivalent under tribal law if the young adult's guardianship or state-funded adoption assistance agreement was disrupted or terminated after he or she had attained the age of sixteen years

and (i) who, upon attaining the age of eligibility, was in an out-of-home placement or had been discharged to independent living or (ii) with respect to whom a kinship guardianship assistance agreement or an adoption assistance agreement was in effect pursuant to 42 U.S.C. 673 if the young adult had attained sixteen years of age before the agreement became effective or with respect to whom a state-funded guardianship assistance agreement or a state-funded adoption assistance agreement was in effect if the young adult had attained sixteen years of age before the agreement became effective; or

(c) Subdivision (1), (2), or (3)(b) of section 43-247 and (i) after January 1, 2025, upon one day prior to attaining nineteen years of age or the age of majority under relevant tribal law, was in a court-ordered out-of-home placement and (ii) such placement had been authorized or reauthorized in the six months prior to the juvenile attaining nineteen years of age in a court order finding that it would be contrary to the welfare of the juvenile to remain in or return to the juvenile's family home;

(3) Who is:

(a) Completing secondary education or an educational program leading to an equivalent credential;

(b) Enrolled in an institution which provides postsecondary or vocational education;

(c) Employed for at least eighty hours per month;

(d) Participating in a program or activity designed to promote employment or remove barriers to employment; or

(e) Incapable of doing any of the activities described in subdivisions (3)(a) through (d) of this section due to a medical condition, which incapacity is supported by regularly updated information in the case plan of the young adult;

(4) Who is a Nebraska resident, except that this requirement shall not disqualify a young adult who was a Nebraska resident but was placed outside Nebraska pursuant to the Interstate Compact for the Placement of Children; and

(5) Who does not meet the level of care for a nursing facility as defined in section 71-424, for a skilled nursing facility as defined in section 71-429, or for an intermediate care facility for persons with developmental disabilities as defined in section 71-421.

Source: Laws 2013, LB216, § 4; Laws 2014, LB853, § 33; Laws 2015, LB243, § 16; Laws 2019, LB600, § 11; Laws 2020, LB848, § 5; Laws 2023, LB50, § 26.
Effective date September 2, 2023.

Cross References

Interstate Compact for the Placement of Children, see section 43-1103.

43-4505 Extended services and support; services enumerated.

Extended services and support provided under the bridge to independence program include, but are not limited to:

(1) Medical care under the medical assistance program for young adults who meet the eligibility requirements of section 43-4504 and have signed a voluntary services and support agreement as provided in section 43-4506;

(2) Medical care under the medical assistance program for young adults who meet the eligibility requirements of subdivision (2)(c) of section 43-4504, are eligible for a category of medical assistance pursuant to section 68-915 or other medical assistance category under federal law, and have signed a voluntary services and support agreement as provided in section 43-4506;

(3) Housing, placement, and support in the form of foster care maintenance payments which shall remain at least at the rate set immediately prior to the young adult's exit from foster care. As decided by and with the young adult, young adults may reside in a foster family home, a supervised independent living setting, an institution, or a foster care facility. Placement in an institution or a foster care facility should occur only if necessary due to a young adult's developmental level or medical condition. A young adult who is residing in a foster care facility upon leaving foster care may choose to temporarily stay until he or she is able to transition to a more age-appropriate setting. For young adults residing in a supervised independent living setting:

(a) The department may send all or part of the foster care maintenance payments directly to the young adult. This should be decided on a case-by-case basis by and with the young adult in a manner that respects the independence of the young adult; and

(b) Rules and restrictions regarding housing options should be respectful of the young adult's autonomy and developmental maturity. Specifically, safety assessments of the living arrangements shall be age-appropriate and consistent with federal guidance on a supervised setting in which the individual lives independently. A clean background check shall not be required for an individual residing in the same residence as the young adult; and

(4) Case management services that are young-adult driven. Case management shall be a continuation of the independent living transition proposal in section 43-1311.03, including a written description of additional resources that will help the young adult in creating permanent relationships and preparing for the transition to adulthood and independent living. Case management shall include the development of a case plan, developed jointly by the department and the young adult, that includes a description of the identified housing situation or living arrangement, the resources to assist the young adult in the transition from the bridge to independence program to adulthood, and the needs listed in subsection (1) of section 43-1311.03. The case plan shall incorporate the independent living transition proposal in section 43-1311.03. A new plan shall be developed for young adults who have no previous independent living transition proposal. Case management shall also include, but not be limited to, documentation that assistance has been offered and provided that would help the young adult meet his or her personal goals, if such assistance is appropriate and if the young adult is eligible and consents to receive such assistance. This shall include, but not be limited to, assisting the young adult to:

(a) Obtain employment or other financial support;

(b) Obtain a government-issued identification card;

(c) Open and maintain a bank account;

(d) Obtain appropriate community resources, including health, mental health, developmental disability, and other disability services and support;

(e) When appropriate, satisfy any juvenile justice system requirements and assist with sealing the young adult's juvenile court record if the young adult is eligible under section 43-2,108.01;

(f) Complete secondary education;

(g) Apply for admission and aid for postsecondary education or vocational courses;

(h) Obtain the necessary state court findings and then apply for special immigrant juvenile status as defined in 8 U.S.C. 1101(a)(27)(J) or apply for other immigration relief that the young adult may be eligible for;

(i) Create a health care power of attorney, health care proxy, or other similar document recognized under state law, at the young adult's option, pursuant to the federal Patient Protection and Affordable Care Act, Public Law 111-148;

(j) Obtain a copy of health and education records of the young adult;

(k) Apply for any public benefits or benefits that the young adult may be eligible for or may be due through his or her parents or relatives, including, but not limited to, aid to dependent children, supplemental security income, social security disability insurance, social security survivors benefits, the Special Supplemental Nutrition Program for Women, Infants, and Children, the Supplemental Nutrition Assistance Program, and low-income home energy assistance programs;

(l) Maintain relationships with individuals who are important to the young adult, including searching for individuals with whom the young adult has lost contact;

(m) Access information about maternal and paternal relatives, including any siblings;

(n) Access young adult empowerment opportunities, such as Project Everlast and peer support groups; and

(o) Access pregnancy and parenting resources and services.

Source: Laws 2013, LB216, § 5; Laws 2014, LB853, § 34; Laws 2015, LB243, § 17; Laws 2023, LB50, § 27.

Effective date September 2, 2023.

43-4508 Department; filing with juvenile court; contents; jurisdiction of court; bridge to independence program file; hearing for permanency review; appointment of hearing officer; department; duties; court review services and support; confidentiality; waiver.

(1) Within fifteen days after the voluntary services and support agreement is signed, the department shall file a petition with the juvenile court describing the young adult's current situation, including the young adult's name, date of birth, and current address and the reasons why it is in the young adult's best interests to participate in the bridge to independence program. The department shall also provide the juvenile court with a copy of the signed voluntary services and support agreement, a copy of the case plan, and any other information the department or the young adult wants the court to consider.

(2) The department shall ensure continuity of care and eligibility by working with a child who wants to participate in the bridge to independence program and, pursuant to section 43-4504, is likely to be eligible to participate in such program immediately following the termination of the juvenile court's jurisdiction.

tion pursuant to subdivision (1), (2), (3)(a), or (3)(b) of section 43-247 or subdivision (8) of section 43-247 if the young adult's guardianship or state-funded adoption assistance agreement was disrupted or terminated after he or she had attained the age of sixteen years. The voluntary services and support agreement shall be signed and the petition filed with the court upon the child's nineteenth birthday or within ten days thereafter. There shall be no interruption in the foster care maintenance payment and medical assistance coverage for a child who is eligible and chooses to participate in the bridge to independence program immediately following the termination of the juvenile court's jurisdiction pursuant to subdivision (1), (2), (3)(a), or (3)(b) of section 43-247.

(3) The court has the jurisdiction to review the voluntary services and support agreement signed by the department and the young adult under section 43-4506 and to conduct permanency reviews as described in this section. Upon the filing of a petition under subsection (1) of this section, the court shall open a bridge to independence program file for the young adult for the purpose of determining whether continuing in such program is in the young adult's best interests and for the purpose of conducting permanency reviews.

(4) The court shall make the best interests determination as described in subsection (3) of this section not later than one hundred eighty days after the young adult and the department enter into the voluntary services and support agreement.

(5) The court shall conduct a hearing for permanency review consistent with 42 U.S.C. 675(5)(C) as described in subsection (6) of this section regarding the voluntary services and support agreement at least once per year and may conduct such hearing at additional times, but not more times than is reasonably practicable, at the request of the young adult, the department, or any other party to the proceeding. The court shall make a reasonable effort finding required by subdivision (6)(c) of this section within twelve months after the court makes its best interests determination under subsection (4) of this section. Upon the filing of the petition as provided in subsection (1) of this section or anytime thereafter, the young adult may request, in the voluntary services and support agreement or by other appropriate means, a timeframe in which the young adult prefers to have the permanency review hearing scheduled and the court shall seek to accommodate the request as practicable and consistent with 42 U.S.C. 675(5)(C). The juvenile court may request the appointment of a hearing officer pursuant to section 24-230 to conduct permanency review hearings. The department is not required to have legal counsel present at such hearings. The juvenile court shall conduct the permanency reviews in an expedited manner and shall issue findings and orders, if any, as speedily as possible.

(6)(a) The primary purpose of the permanency review is to ensure that the bridge to independence program is providing the young adult with the needed services and support to help the young adult move toward permanency and self-sufficiency. This shall include that, in all permanency reviews or hearings regarding the transition of the young adult from foster care to independent living, the court shall consult, in an age-appropriate manner, with the young adult regarding the proposed permanency or transition plan for the young adult. The young adult shall have a clear self-advocacy role in the permanency review in accordance with section 43-4510, and the hearing shall support the active engagement of the young adult in key decisions. Permanency reviews

shall be conducted on the record and in an informal manner and, whenever possible, outside of the courtroom.

(b) The department shall prepare and present to the juvenile court a report, at the direction of the young adult, addressing progress made in meeting the goals in the case plan, including the independent living transition proposal, and shall propose modifications as necessary to further those goals.

(c) The court shall determine whether the bridge to independence program is providing the appropriate services and support as provided in the voluntary services and support agreement to carry out the case plan. The court shall also determine whether reasonable efforts have been made to achieve the permanency goal as set forth in the case plan and the department's report provided under subdivision (6)(b) of this section. The court shall issue specific written findings regarding such reasonable efforts. The court has the authority to determine whether the young adult is receiving the services and support he or she is entitled to receive under the Young Adult Bridge to Independence Act and the department's policies or state or federal law to help the young adult move toward permanency and self-sufficiency. If the court believes that the young adult requires additional services and support to achieve the goals documented in the case plan or under the Young Adult Bridge to Independence Act and the department's policies or state or federal law, the court may make appropriate findings or order the department to take action to ensure that the young adult receives the identified services and support.

(7) All pleadings, filings, documents, and reports filed pursuant to this section and subdivision (11) of section 43-247 shall be confidential. The proceedings pursuant to this section and subdivision (11) of section 43-247 shall be confidential unless a young adult provides a written waiver or a verbal waiver in court. Such waiver may be made by the young adult in order to permit the proceedings to be held outside of the courtroom or for any other reason. The Foster Care Review Office shall have access to any and all pleadings, filings, documents, reports, and proceedings necessary to complete its case review process. This section shall not prevent the juvenile court from issuing an order identifying individuals and agencies who shall be allowed to receive otherwise confidential information for legitimate and official purposes as authorized by section 43-3001.

Source: Laws 2013, LB216, § 8; Laws 2014, LB853, § 37; Laws 2015, LB243, § 19; Laws 2019, LB600, § 12; Laws 2023, LB50, § 28.
Effective date September 2, 2023.

43-4510 Court-appointed attorney; continuation of guardian ad litem or defense counsel; independence coordinator; duties; notice; court appointed special advocate volunteer.

(1) If desired by the young adult, the young adult shall be provided a court-appointed attorney who has received training appropriate to the role. The attorney's representation of the young adult shall be client-directed. The attorney shall protect the young adult's legal rights and vigorously advocate for the young adult's wishes and goals, including assisting the young adult as necessary to ensure that the bridge to independence program is providing the young adult with the services and support required under the Young Adult Bridge to Independence Act. For young adults who were appointed a guardian ad litem or defense counsel before the young adult attained the age of eligibility, the

guardian ad litem's or defense counsel's appointment may be continued, with consent from the young adult, but under a client-directed model of representation. Before entering into a voluntary services and support agreement and at least sixty days prior to each permanency and case review, the independence coordinator shall notify the young adult of his or her right to request a client-directed attorney if the young adult would like an attorney to be appointed and shall provide the young adult with a clear and developmentally appropriate written notice regarding the young adult's right to request a client-directed attorney, the benefits and role of such attorney, and the specific steps to take to request that an attorney be appointed if the young adult would like an attorney appointed.

(2) The court has discretion to appoint a court appointed special advocate volunteer or continue the appointment of a previously appointed court appointed special advocate volunteer with the consent of the young adult.

Source: Laws 2013, LB216, § 10; Laws 2014, LB853, § 40; Laws 2020, LB848, § 6; Laws 2023, LB50, § 29.
Effective date September 2, 2023.

43-4511.01 Participation in extended guardianship or bridge to independence program; participation in extended adoption assistance or bridge to independence program; choice of participant; notice; contents; department; duties.

(1)(a) Young adults who are eligible to participate under both extended guardianship assistance as provided in section 43-4511 and the bridge to independence program as provided in subdivision (2)(b)(ii) of section 43-4504 may choose to participate in either program.

(b) Young adults who are eligible to participate under both extended adoption assistance as provided in section 43-4512 and the bridge to independence program as provided in subdivision (2)(b)(ii) of section 43-4504 may choose to participate in either program.

(2) The department shall create a clear and developmentally appropriate written notice discussing the rights of young adults who are eligible under both extended guardianship assistance and the bridge to independence program and a notice for young adults who are eligible under both extended adoption assistance and the bridge to independence program. The notice shall explain the benefits and responsibilities and the process to apply. The department shall provide the written notice and make efforts to provide a verbal explanation to a young adult with respect to whom a kinship guardianship assistance agreement or an adoption assistance agreement was in effect pursuant to 42 U.S.C. 673 if the young adult had attained sixteen years of age before the agreement became effective or with respect to whom a state-funded guardianship assistance agreement or state-funded adoption assistance agreement was in effect if the young adult had attained sixteen years of age before the agreement became effective. The department shall provide the notice yearly thereafter until such young adult reaches nineteen years of age and not later than ninety days prior to the young adult attaining nineteen years of age.

Source: Laws 2015, LB243, § 21; Laws 2019, LB600, § 13; Laws 2023, LB50, § 30.
Effective date September 2, 2023.

43-4514 Department; submit amended state plan amendment to seek federal funding; department; duties; rules and regulations; references to United States Code; how construed.

(1) The department shall submit an amended state plan amendment by October 1, 2023, to seek federal Title IV-E funding under 42 U.S.C. 672 for any newly eligible young adult who was adjudicated to be a juvenile described in subdivision (1), (2), or (3)(b) of section 43-247 and who meets the requirements under subdivision (2)(c) of section 43-4504.

(2) The department shall implement the bridge to independence program, extended guardianship assistance described in section 43-4511, and extended adoption assistance described in section 43-4512 in accordance with the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, 42 U.S.C. 673 and 42 U.S.C. 675(8)(B) and in accordance with requirements necessary to obtain federal Title IV-E funding under 42 U.S.C. 672 and 42 U.S.C. 673.

(3) The department shall adopt and promulgate rules and regulations as needed to carry out this section by July 1, 2024.

(4) All references to the United States Code in the Young Adult Bridge to Independence Act refer to sections of the code as such sections existed on January 1, 2015.

Source: Laws 2013, LB216, § 14; Laws 2014, LB853, § 44; Laws 2015, LB243, § 24; Laws 2019, LB600, § 15; Laws 2023, LB50, § 31.
Effective date September 2, 2023.

CHAPTER 44

INSURANCE

Article.

- 3. General Provisions Relating to Insurance. 44-312 to 44-319.06.
- 7. General Provisions Covering Life, Sickness, and Accident Insurance. 44-714 to 44-7,102.
- 19. Title Insurance.
 - (b) Title Insurers Act. 44-1993.
- 28. Nebraska Hospital-Medical Liability Act. 44-2824 to 44-2833.
- 33. Legal Service Insurance Corporations. 44-3308.
- 40. Insurance Producers Licensing Act. 44-4054.
- 51. Investments. 44-5140, 44-5141.
- 65. Pet Insurance Act. 44-6501 to 44-6510.
- 94. Insurance Regulatory Sandbox Act. 44-9401 to 44-9410.

ARTICLE 3

GENERAL PROVISIONS RELATING TO INSURANCE

Section

- 44-312. Telehealth and telemonitoring services covered under policy, certificate, contract, or plan; insurer; duties; reimbursement rate; requirements.
- 44-319.02. Domestic companies; securities; amount required.
- 44-319.03. Domestic companies; securities; deposit; minimum required.
- 44-319.06. Foreign companies; securities; amount required.

44-312 Telehealth and telemonitoring services covered under policy, certificate, contract, or plan; insurer; duties; reimbursement rate; requirements.

(1) For purposes of this section:

(a)(i) Telehealth means the use of medical information electronically exchanged from one site to another, whether synchronously or asynchronously, to aid a health care provider in the diagnosis or treatment of a patient.

(ii) Telehealth includes (A) services originating from a patient's home or any other location where such patient is located, (B) asynchronous services involving the acquisition and storage of medical information at one site that is then forwarded to or retrieved by a health care provider at another site for medical evaluation, and (C) telemonitoring.

(iii) Telehealth also includes audio-only services for the delivery of individual behavioral health services for an established patient, when appropriate, or crisis management and intervention for an established patient as allowed by federal law; and

(b) Telemonitoring means the remote monitoring of a patient's vital signs, biometric data, or subjective data by a monitoring device which transmits such data electronically to a health care provider for analysis and storage.

(2) Any insurer offering (a) any individual or group sickness and accident insurance policy, certificate, or subscriber contract delivered, issued for delivery, or renewed in this state, (b) any hospital, medical, or surgical expense-incurred policy, except for policies that provide coverage for a specified disease or other limited-benefit coverage, or (c) any self-funded employee benefit plan

to the extent not preempted by federal law, shall provide upon request to a policyholder, certificate holder, or health care provider a description of the telehealth and telemonitoring services covered under the relevant policy, certificate, contract, or plan.

(3) The description shall include:

(a) A description of services included in telehealth and telemonitoring coverage, including, but not limited to, any coverage for transmission costs;

(b) Exclusions or limitations for telehealth and telemonitoring coverage, including, but not limited to, any limitation on coverage for transmission costs; and

(c) Requirements for the licensing status of health care providers providing telehealth and telemonitoring services.

(4) Except as otherwise provided in section 44-793, the reimbursement rate for any telehealth service shall, at a minimum, be the same as a comparable in-person health care service if the licensed provider providing the telehealth service also provides in-person health care services at a physical location in Nebraska or is employed by or holds medical staff privileges at a licensed facility in Nebraska and such facility provides in-person health care services in Nebraska.

Source: Laws 2015, LB257, § 1; Laws 2021, LB400, § 1; Laws 2023, LB296, § 11.

Operative date September 2, 2023.

44-319.02 Domestic companies; securities; amount required.

Every domestic insurer hereafter organized to transact the business of insurance in this state shall deposit and continually maintain with the Department of Insurance eligible securities for the benefit of all of its policyholders or policyholders and creditors in the United States in the amount of one hundred thousand dollars.

Source: Laws 1955, c. 174, § 2, p. 499; Laws 1989, LB 92, § 96; Laws 2023, LB92, § 51.

Operative date September 2, 2023.

44-319.03 Domestic companies; securities; deposit; minimum required.

Every domestic assessment association hereafter organized to transact the business of insurance in this state, except (1) health and accident assessment associations and (2) assessment associations organized primarily to write insurance coverage on farm properties against the perils of fire, lightning, windstorm, and hail, shall deposit with the Department of Insurance eligible securities for the benefit of all of its policyholders or policyholders and creditors in the United States equal to one-fifth of the minimum surplus funds required of domestic mutual insurance companies licensed to write the same kind or kinds of insurance.

Source: Laws 1955, c. 174, § 3, p. 499; Laws 1993, LB 583, § 73; Laws 2023, LB92, § 52.

Operative date September 2, 2023.

44-319.06 Foreign companies; securities; amount required.

No foreign insurer or assessment association now or hereafter authorized to do business in this state shall henceforth transact such business unless it shall deposit and continually maintain with the Department of Insurance or with the proper official of some one state of the United States designated by law to accept such deposit, eligible securities in the amount of not less than one hundred thousand dollars for the benefit of all of its policyholders or policyholders and creditors in the United States.

Source: Laws 1955, c. 174, § 6, p. 499; Laws 2023, LB92, § 53.
Operative date September 2, 2023.

ARTICLE 7

GENERAL PROVISIONS COVERING LIFE, SICKNESS, AND ACCIDENT INSURANCE

Section	
44-714.	Health benefit plan; plan sponsor; electronic delivery of communications; consent on behalf of covered person; conditions.
44-785.	Coverage for screening mammography, digital breast tomosynthesis, bilateral whole breast ultrasound, and diagnostic magnetic resonance imaging; requirements.
44-790.01.	Covered prescription insulin drug; maximum payment; ensure access; requirements.
44-7,102.	Coverage for screening for colorectal cancer.

44-714 Health benefit plan; plan sponsor; electronic delivery of communications; consent on behalf of covered person; conditions.

(1) For purposes of this section:

(a) Health benefit plan means a policy, a contract, a certificate, or an agreement entered into, offered by, or issued by an insurer to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including a vision or dental benefit plan. Health benefit plan shall not include any coverage pursuant to a liability insurance policy, including medical payments insurance issued as a supplement to a liability insurance policy, or a workers' compensation insurance policy; and

(b) Plan sponsor means:

(i) In the case of a health benefit plan established or maintained by a single employer, the employer;

(ii) In the case of a health benefit plan established or maintained by an employee organization, the employee organization; or

(iii) In the case of a health benefit plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan.

(2) The plan sponsor of a health benefit plan may, on behalf of covered persons in the plan, provide the consent to the delivery of all communications related to the plan by electronic means and to the electronic delivery of any health insurance identification card if, before consenting on behalf of a covered person, a plan sponsor:

(a) Confirms that the covered person routinely uses electronic communications during the normal course of employment;

(b) Provides the covered person an opportunity to opt out of delivery by electronic means; and

(c) Follows all federal and state laws relating to the electronic delivery of such information or documents.

Source: Laws 2023, LB92, § 87.

Operative date September 2, 2023.

44-785 Coverage for screening mammography, digital breast tomosynthesis, bilateral whole breast ultrasound, and diagnostic magnetic resonance imaging; requirements.

(1) Notwithstanding section 44-3,131, (a) any individual or group sickness and accident insurance policy or subscriber contract delivered, issued for delivery, or renewed in this state and any hospital, medical, or surgical expense-incurred policy, except for policies that provide coverage for a specified disease or other limited-benefit coverage, and (b) any self-funded employee benefit plan to the extent not preempted by federal law shall include coverage for screening mammography, digital breast tomosynthesis, bilateral whole breast ultrasound, and diagnostic magnetic resonance imaging as follows:

(i) For a woman who is thirty-five years of age or older but younger than forty years of age, one base-line mammogram between thirty-five and forty years of age;

(ii) For a woman who is younger than forty years of age and who, based on the National Comprehensive Cancer Network Guidelines for Breast Cancer Screening and Diagnosis version 1.2022 and the recommendation of the woman's health care provider, has an increased risk of breast cancer due to (A) a family or personal history of breast cancer or prior atypical breast biopsy, (B) positive genetic testing, or (C) heterogeneous or dense breast tissue based on a breast imaging, at least one mammogram each year and additional mammograms if necessary;

(iii) For a woman who is forty years of age or older, one mammogram every year;

(iv) For a woman who, based on the National Comprehensive Cancer Network Guidelines for Breast Cancer Screening and Diagnosis version 1.2022 and the recommendation of the woman's health care provider, has an increased risk for breast cancer due to (A) a family or personal history of breast cancer or prior atypical breast biopsy, (B) positive genetic testing, or (C) heterogeneous or dense breast tissue based on a breast imaging, one digital breast tomosynthesis each year;

(v) For a woman who, based on the National Comprehensive Cancer Network Guidelines for Breast Cancer Screening and Diagnosis version 1.2022 and the recommendation of the woman's health care provider, has an increased risk for breast cancer due to (A) a family or personal history of breast cancer or prior atypical breast biopsy, (B) positive genetic testing, or (C) heterogeneous or dense breast tissue based on a breast imaging, one bilateral whole breast ultrasound each year;

(vi) For a woman who, based on the National Comprehensive Cancer Network Guidelines for Breast Cancer Screening and Diagnosis version 1.2022 and the recommendation of the woman's health care provider, has an increased risk for breast cancer due to (A) a family or personal history of breast cancer or

prior atypical breast biopsy, (B) positive genetic testing, or (C) a history of chest radiation, one diagnostic magnetic resonance imaging each year; and

(vii) For a woman who, based on national standard risk models or the National Comprehensive Cancer Network Guidelines for Breast Cancer Screening and Diagnosis, has an increased risk of breast cancer and heterogeneous or dense breast tissue, one diagnostic magnetic resonance imaging each year.

(2)(a) Except as provided in subdivision (b) of this subsection, this section prohibits the application of deductible, coinsurance, copayment, or other cost-sharing requirements contained in the policy or health benefit plan for such services.

(b) This section does not prevent application of deductible or copayment provisions contained in the policy or health benefit plan for diagnostic magnetic resonance imaging for a woman based on heterogeneous or dense breast tissue.

(c) This section does not require that coverage under an individual or group policy or health benefit plan be extended to any other procedures. The coverage provided by this section shall not be less favorable than for other radiological examinations.

(3) For purposes of this section, screening mammography shall mean radiological examination of the breast of asymptomatic women for the early detection of breast cancer, which examination shall include (a) a cranio-caudal and a medial lateral oblique view of each breast and (b) a licensed radiologist's interpretation of the results of the procedure. Screening mammography shall not include diagnostic mammography, additional projections required for lesion definition, breast ultrasound, or any breast interventional procedure. Screening mammography shall be performed by a mammogram supplier who meets the standards of the federal Mammography Quality Standards Act of 1992.

Source: Laws 1995, LB 68, § 1; Laws 2023, LB92, § 54.
Operative date January 1, 2024.

44-790.01 Covered prescription insulin drug; maximum payment; ensure access; requirements.

(1) Except as provided in subsection (3) of this section, beginning January 1, 2024, and notwithstanding section 44-3,131, (a) any individual or group sickness and accident insurance policy or subscriber contract delivered, issued for delivery, or renewed in this state and any hospital, medical, or surgical expense-incurred policy, except for policies that provide coverage for a specified disease or other limited-benefit coverage, and (b) any self-funded employee benefit plan to the extent not preempted by federal law, which provides reimbursement for prescription insulin drugs shall limit the total amount that a covered individual is required to pay for each covered prescription insulin drug on the policy's, contract's, or plan's lowest brand or generic tier to a maximum of thirty-five dollars per thirty-day supply of insulin, regardless of the amount needed.

(2) Nothing in this section prevents a policy, contract, or plan from reducing the total amount that a covered individual is required to pay for each covered prescription insulin drug to an amount less than the maximum specified in subsection (1) of this section.

(3) If, due to a national shortage of an insulin drug, a covered individual cannot access a covered prescription insulin drug on the lowest brand or generic tier of the policy, contract, or plan, the policy, contract, or plan shall ensure access to an insulin drug at a maximum of thirty-five dollars per thirty-day supply, until such time that the national shortage ends to prevent disruptions in patient access to insulin.

(4) For purposes of this section, prescription insulin drug means a prescription drug that contains insulin and is used to treat diabetes.

Source: Laws 2023, LB92, § 86.

Operative date September 2, 2023.

44-7,102 Coverage for screening for colorectal cancer.

(1) Notwithstanding section 44-3,131, (a) any individual or group sickness and accident insurance policy, certificate, or subscriber contract delivered, issued for delivery, or renewed in this state and any hospital, medical, or surgical expense-incurred policy, except for short-term major medical policies of six months or less duration and policies that provide coverage for a specified disease or other limited-benefit coverage, and (b) any self-funded employee benefit plan to the extent not preempted by federal law shall include screening coverage for a colorectal cancer examination and laboratory tests for cancer for any nonsymptomatic person forty-five years of age or older covered under such policy, certificate, contract, or plan. Such screening coverage shall include a maximum of one stool-based preventive screening test as approved by the United States Preventive Services Task Force annually and a flexible sigmoidoscopy every five years, a colonoscopy every ten years, or a barium enema every five to ten years, or any combination, or the most reliable, medically recognized screening test available. The screenings selected shall be as deemed appropriate by a health care provider and the patient.

(2) On or after December 31, 2023, no policy, certificate, or contract, delivered, issued for delivery, or renewed in this state, or any self-funded employee benefit plan, to the extent not preempted by federal law, shall impose a deductible, coinsurance, or any other cost-sharing requirements for screening colonoscopies as recommended by the United States Preventive Services Task Force, including those performed as a result of a positive noncolonoscopy stool-based preventive screening test.

Source: Laws 2007, LB247, § 86; Laws 2022, LB863, § 20; Laws 2023, LB92, § 55.

Operative date September 2, 2023.

ARTICLE 19

TITLE INSURANCE

(b) TITLE INSURERS ACT

Section

44-1993. Duties of title insurers utilizing the services of title insurance agents; liability.

(b) TITLE INSURERS ACT

44-1993 Duties of title insurers utilizing the services of title insurance agents; liability.

(1) A title insurer shall not accept title insurance business from a title insurance agent unless there is in force a written contract between the parties

which sets forth the responsibilities of each party and, when both parties share responsibility for a particular function, specifies the division of responsibilities.

(2) For each title insurance agent under contract with a title insurer, the title insurer shall have on file a statement of financial condition of each title insurance agent as of the end of the previous calendar year setting forth an income statement of title insurance business done during the preceding year and a balance sheet showing the condition of its affairs as of the prior December 31 certified by the title insurance agent as being a true and accurate representation of the title insurance agent's financial condition. Attorneys actively engaged in the practice of law, other than that related to title insurance business, are exempt from the requirements of this subsection.

(3) A title insurer shall, at least annually, conduct a review of the underwriting, claims, and escrow practices of the title insurance agent which shall include a review of the title insurance agent's title insurance policy form inventory and processing operations. If the title insurance agent does not maintain separate financial institution or trust accounts for each title insurer it represents, the title insurer shall verify that the funds held on its behalf are reasonably ascertainable from the books of account and records of the title insurance agent.

(4) Within thirty days after executing or terminating a contract with a title insurance agent, a title insurer shall provide written notification of the appointment or termination and the reason for termination to the director. Notices of appointment of a title insurance agent shall be made on a form prescribed or approved by the director.

(5) A title insurer shall maintain an inventory of all title insurance policy forms or title insurance policy numbers allocated to each title insurance agent.

(6) A title insurer shall have on file proof that each title insurance agent is licensed by this state.

(7) A title insurer shall establish the underwriting guidelines and, when applicable, limitations on title claims settlement authority to be incorporated into contracts with its title insurance agents.

(8)(a) A title insurer is liable for the defalcation, conversion, or misappropriation by a title insurance agent appointed by or under written contract with such title insurer of escrow, settlement, closing, or security deposit funds handled by such title insurance agent in contemplation of or in conjunction with the issuance of a title insurance commitment or title insurance policy by such title insurer. However, if no such title insurance commitment or title insurance policy was issued, each title insurer which appointed or maintained a written contract with such title insurance agent at the time of the discovery of the defalcation, conversion, or misappropriation shares in the liability for the defalcation, conversion, or misappropriation in the same proportion that the premium remitted to the title insurer by such title insurance agent during the twelve-month period immediately preceding the date of the discovery of the defalcation, conversion, or misappropriation bears to the total premium remitted to all title insurers by such title insurance agent during the twelve-month period immediately preceding the date of the discovery of the defalcation, conversion, or misappropriation.

(b) For purposes of this subsection, title insurance agent includes (i) a person with whom a title insurer maintains a title insurance agency agreement and (ii)

an employer or employee of a title insurance agent or of a person with whom a title insurer maintains a title insurance agency agreement.

Source: Laws 1997, LB 53, § 16; Laws 2004, LB 155, § 2; Laws 2023, LB92, § 56.

Operative date September 2, 2023.

ARTICLE 28

NEBRASKA HOSPITAL-MEDICAL LIABILITY ACT

Section

- 44-2824. Health care provider; qualify under act; conditions.
 44-2825. Action for injury or death; maximum amount recoverable; settlement; manner; coverage; how treated.
 44-2827. Health care provider; proof of financial responsibility; filing by insurer.
 44-2831.01. Applicability of change to law.
 44-2832. Claims; paid; procedure; limitation.
 44-2833. Claim; agreement to settle; procedure; settlement; judgment; appeal.

44-2824 Health care provider; qualify under act; conditions.

(1) To be qualified under the Nebraska Hospital-Medical Liability Act, a health care provider or such health care provider's employer, employee, partner, or limited liability company member shall:

(a) File with the director proof of financial responsibility, pursuant to section 44-2827 or 44-2827.01, in the amount of eight hundred thousand dollars for each occurrence. An aggregate liability amount of three million dollars for all occurrences or claims made in any policy year or risk-loss trust year for each named insured shall be provided. Such policy may be written on either an occurrence or a claims-made basis. Any risk-loss trust shall be established and maintained only on an occurrence basis. Such qualification shall remain effective only as long as insurance coverage or risk-loss trust coverage as required remains effective; and

(b) Pay the surcharge and any special surcharge levied on all health care providers pursuant to sections 44-2829 to 44-2831.

(2) Subject to the requirements in subsections (1) and (4) of this section, the qualification of a health care provider shall be either on an occurrence or claims-made basis and shall be the same as the insurance coverage provided by the insured's policy.

(3) The director shall have authority to permit qualification of health care providers who have retired or ceased doing business if such health care providers have primary insurance coverage under subsection (1) of this section.

(4) A health care provider who is not qualified under the act at the time of the alleged occurrence giving rise to a claim shall not, for purposes of that claim, qualify under the act notwithstanding subsequent filing of proof of financial responsibility and payment of a required surcharge.

(5) Qualification of a health care provider under the Nebraska Hospital-Medical Liability Act shall continue only as long as the health care provider meets the requirements for qualification. A health care provider who has once qualified under the act and who fails to renew or continue his or her qualification in the manner provided by law and by the rules and regulations of the Department of Insurance shall cease to be qualified under the act.

Source: Laws 1976, LB 434, § 24; Laws 1984, LB 692, § 7; Laws 1986, LB 1005, § 1; Laws 1990, LB 542, § 3; Laws 1993, LB 121,

§ 247; Laws 1994, LB 884, § 59; Laws 2004, LB 998, § 1; Laws 2005, LB 256, § 18; Laws 2023, LB92, § 57.

Operative date January 1, 2025.

44-2825 Action for injury or death; maximum amount recoverable; settlement; manner; coverage; how treated.

(1) The total amount recoverable under the Nebraska Hospital-Medical Liability Act from any and all health care providers and the Excess Liability Fund for any occurrence resulting in any injury or death of a patient may not exceed (a) five hundred thousand dollars for any occurrence on or before December 31, 1984, (b) one million dollars for any occurrence after December 31, 1984, and on or before December 31, 1992, (c) one million two hundred fifty thousand dollars for any occurrence after December 31, 1992, and on or before December 31, 2003, (d) one million seven hundred fifty thousand dollars for any occurrence after December 31, 2003, and on or before December 31, 2014, and (e) two million two hundred fifty thousand dollars for any occurrence after December 31, 2014.

(2) A health care provider qualified under the act shall not be liable to any patient or his or her representative who is covered by the act for an amount in excess of eight hundred thousand dollars for all claims or causes of action arising from any occurrence during the period that the act is effective with reference to such patient.

(3) Subject to the overall limits from all sources as provided in subsection (1) of this section, any amount due from a judgment or settlement which is in excess of the total liability of all liable health care providers shall be paid from the Excess Liability Fund pursuant to sections 44-2831 to 44-2833.

(4) Nothing in the Nebraska Hospital-Medical Liability Act shall be construed to require the Excess Liability Fund to provide coverage for the first eight hundred thousand dollars per occurrence or to provide a defense for or on behalf of a qualified health care provider after the provider's annual aggregate limit of liability amount set forth in sections 44-2824 and 44-2827 has been exhausted. A qualified health care provider's purchase of coverage with an aggregate limit of liability higher than required by sections 44-2824 and 44-2827 shall not affect the obligation of payment from the Excess Liability Fund pursuant to this section.

Source: Laws 1976, LB 434, § 25; Laws 1984, LB 692, § 8; Laws 1986, LB 1005, § 2; Laws 1992, LB 1006, § 18; Laws 2003, LB 146, § 1; Laws 2004, LB 998, § 2; Laws 2014, LB961, § 3; Laws 2023, LB92, § 58.

Operative date January 1, 2025.

44-2827 Health care provider; proof of financial responsibility; filing by insurer.

Financial responsibility of a health care provider may be established only by filing with the director proof that the health care provider is insured pursuant to sections 44-2837 to 44-2839 or by a policy of professional liability insurance in a company authorized to do business in Nebraska. Such insurance shall be in the amount of eight hundred thousand dollars per occurrence, and an aggregate liability amount of three million dollars for all occurrences or claims

made in any policy year shall be provided. The filing shall state the premium charged for the policy of insurance.

Source: Laws 1976, LB 434, § 27; Laws 1986, LB 1005, § 3; Laws 2003, LB 146, § 2; Laws 2004, LB 998, § 3; Laws 2005, LB 256, § 19; Laws 2023, LB92, § 59.
Operative date January 1, 2025.

44-2831.01 Applicability of change to law.

(1) Any health care provider who has furnished proof of financial responsibility prior to January 1, 2025, under sections 44-2824 and 44-2827 shall be qualified under section 44-2824 for the remainder of the policy year or risk-loss trust year.

(2) The increases in coverage requirements made by Laws 2004, LB 998, in sections 44-2824 and 44-2827 shall apply to policies issued or renewed and risk-loss trust years that commence after January 1, 2005, and before January 1, 2025.

(3) The changes made to sections 44-2825, 44-2832, and 44-2833 by Laws 2004, LB 998, apply commencing with policies issued or renewed and risk-loss trust years that commence after January 1, 2005, and before January 1, 2025.

(4) The increases in coverage requirements made by Laws 2023, LB92, in sections 44-2824 and 44-2827 shall apply to policies issued or renewed and risk-loss trust years that commence on or after January 1, 2025.

(5) The changes made to sections 44-2825, 44-2832, and 44-2833 by Laws 2023, LB92, apply commencing with policies issued or renewed and risk-loss trust years that commence on or after January 1, 2025.

Source: Laws 2004, LB 998, § 6; Laws 2023, LB92, § 60.
Operative date January 1, 2025.

44-2832 Claims; paid; procedure; limitation.

(1) The Director of Administrative Services shall issue a warrant drawn on the fund in the amount of each claim submitted by the director. All claims against the fund shall be made on a voucher or other appropriate request by the director after he or she has received:

(a) A certified copy of a final judgment in excess of eight hundred thousand dollars against a health care provider and in excess of the amount recoverable from all health care providers;

(b) A certified copy of a court-approved settlement in excess of eight hundred thousand dollars against a health care provider and in excess of the amount recoverable from all health care providers; or

(c) In case of claims based on primary insurance issued by the risk manager under sections 44-2837 to 44-2839, a certified copy of a final judgment or court-approved settlement requiring payment from the fund.

(2) The amount paid from the fund for excess liability when added to the payments by all health care providers may not exceed the maximum amount recoverable pursuant to subsection (1) of section 44-2825. The amount paid from the fund on account of a primary insurance policy issued by the risk manager to a health care provider under sections 44-2837 to 44-2839 may not

exceed eight hundred thousand dollars for any one occurrence covered by such policy under any circumstances.

Source: Laws 1976, LB 434, § 32; Laws 1984, LB 692, § 13; Laws 1986, LB 1005, § 5; Laws 2004, LB 998, § 7; Laws 2023, LB92, § 61.
Operative date January 1, 2025.

44-2833 Claim; agreement to settle; procedure; settlement; judgment; appeal.

(1) If the insurer of a health care provider shall agree to settle its liability on a claim against its insured by payment of its policy limits of eight hundred thousand dollars and the claimant shall demand an amount in excess thereof for a complete and final release and if no other health care provider is involved, the procedures prescribed in this section shall be followed.

(2) A motion shall be filed by the claimant with the court in which the action is pending against the health care provider or, if no action is pending, the claimant shall file a complaint in one of the district courts of the State of Nebraska, seeking approval of an agreed settlement, if any, or demanding payment of damages from the Excess Liability Fund.

(3) A copy of such motion or complaint shall be served on the director, the health care provider, and the health care provider's insurer and shall contain sufficient information to inform the parties concerning the nature of the claim and the additional amount demanded. The health care provider and his or her insurer shall have a right to intervene and participate in the proceedings.

(4) The director, with the consent of the health care provider, may agree to a settlement with the claimant from the Excess Liability Fund. Either the director or the health care provider may file written objections to the payment of the amount demanded. The agreement or objections to the payment demanded shall be filed within twenty days after the motion or complaint is filed.

(5) After the motion or complaint, agreement, and objections, if any, have been filed, the judge shall set the matter for trial as soon as practicable. The court shall give notice of the trial to the claimant, the health care provider, and the director.

(6) At the trial, the director, the claimant, and the health care provider may introduce relevant evidence to enable the court to determine whether or not the settlement should be approved if it has been submitted on agreement without objections. If the director, the health care provider, and the claimant shall be unable to agree on the amount, if any, to be paid out of the Excess Liability Fund, the amount of claimant's damages, if any, in excess of the eight hundred thousand dollars already paid by the insurer of the health care provider shall be determined at trial.

(7) The court shall determine the amount for which the fund is liable and render a finding and judgment accordingly. In approving a settlement or determining the amount, if any, to be paid from the Excess Liability Fund in such a case, the court shall consider the liability of the health care provider as admitted and established by evidence.

(8) Any settlement approved by the court may not be appealed. Any judgment of the court fixing damages recoverable in any such contested proceeding shall be appealable pursuant to the rules governing appeals in any other civil case.

Source: Laws 1976, LB 434, § 33; Laws 1984, LB 692, § 14; Laws 1986, LB 1005, § 6; Laws 2002, LB 876, § 74; Laws 2004, LB 998, § 8; Laws 2023, LB92, § 62.
Operative date January 1, 2025.

ARTICLE 33

LEGAL SERVICE INSURANCE CORPORATIONS

Section

44-3308. Insurer; transacting legal expense insurance; deposit of securities or surety bond; purpose; release; reduction.

44-3308 Insurer; transacting legal expense insurance; deposit of securities or surety bond; purpose; release; reduction.

(1) An insurer whose purposes according to its articles of incorporation are restricted to transacting legal expense insurance and business reasonably related thereto shall deposit with the director securities eligible for deposit by an insurance company, which shall have at all times a market value of not less than one hundred fifty thousand dollars, or as provided by subsection (7) of this section. A deposit under this section shall be held to assure the faithful performance of the insurer's obligations to its policyholders or policyholders and creditors.

(2) In lieu of any deposit of securities required under subsection (1) of this section, the insurer may file with the director a surety bond in the amount of one hundred fifty thousand dollars, or as provided by subsection (7) of this section. The bond shall be one issued by an insurance company authorized to do business in the State of Nebraska. The bond shall be for the same purposes as the deposit in lieu of which it is filed, and it shall be subject to the director's approval. No such bond shall be canceled or subject to cancellation unless at least thirty days' advance notice thereof, in writing, is filed with the director.

(3) Securities or bond posted by the insurer pursuant to subsection (1) or (2) of this section shall be for the benefit of and subject to action thereon in the event of insolvency of the insurer by any person or persons sustaining an actionable injury due to the failure of the insurer to faithfully perform its obligations to its policyholders or policyholders and creditors.

(4) The State of Nebraska shall be responsible for the safekeeping of all securities deposited with the director under this section. The securities shall not, on account of being in this state, be subject to taxation.

(5) The depositing insurer shall, during its solvency, have the right to exchange or substitute other securities of a like quality and value for securities on deposit, to receive the interest and other income accruing on such securities, and to inspect the deposit at all reasonable times.

(6) The deposit or bond shall be maintained unimpaired as long as the insurer continues in business in this state. Whenever the insurer ceases to do business and furnishes to the director proof satisfactory to the director that the insurer adequately provided for all of its obligations to its policyholders, creditors, or contract holders in this state, the director shall release the deposited securities to the parties entitled thereto, on presentation of the director's receipts for such securities, or shall release any bond filed with it in lieu of such deposit.

(7) The director may reduce the minimum market value of securities required under subsection (1) of this section or the amount of the surety bond required under subsection (2) of this section if he or she finds that the reduction is justified by:

- (a) The terms and number of existing contracts with subscribers;

- (b) Support by financially sound public or private organizations or agencies;
 - (c) Agreements with lawyers or paralegal personnel for the providing of legal services;
 - (d) Agreements with other persons for insuring the payment of the cost of legal services or the provision for alternative coverage in the event the insurer is unable to perform its obligations; or
 - (e) Other reliable financial guarantees.
- (8) No part of the securities or bond to be filed under this section shall be supplied directly or indirectly by dues payments made for the purpose of meeting requirements to practice a profession.

Source: Laws 1979, LB 52, § 8; Laws 2023, LB92, § 63.
Operative date September 2, 2023.

ARTICLE 40

INSURANCE PRODUCERS LICENSING ACT

Section
44-4054. License; lines of authority; renewal; procedure; licensee; duties; director;
powers.

44-4054 License; lines of authority; renewal; procedure; licensee; duties; director; powers.

(1) Unless denied licensure pursuant to section 44-4059, a person who has met the requirements of sections 44-4052 and 44-4053 shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of authority:

- (a) Life insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;
- (b) Accident and health or sickness, insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income;
- (c) Property insurance coverage for the direct or consequential loss or damage to property of every kind;
- (d) Casualty insurance coverage against legal liability, including that for death, injury, or disability or damage to real or personal property;
- (e) Variable life and variable annuity products, insurance coverage provided under variable life insurance contracts, and variable annuities;
- (f) Limited line credit insurance;
- (g) Limited line pre-need funeral insurance;
- (h) Personal lines property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes; and
- (i) Any other line of insurance permitted under Nebraska laws, rules, or regulations.

(2) An insurance producer license shall remain in effect unless revoked or suspended if the fee set forth in section 44-4064 is paid and education requirements for resident individual producers are met by the due date.

(3) All business entity licenses issued under the Insurance Producers Licensing Act shall expire on April 30 of each even-numbered year, and all producers

licenses shall expire on the last day of the month of the producer's birthday in the first year after issuance in which his or her age is divisible by two. Such producer licenses may be renewed within the ninety-day period before their expiration dates. Business entity and producer licenses also may be renewed within the thirty-day period after their expiration dates upon payment of a late renewal fee as established by the director pursuant to section 44-4064 in addition to the applicable fee otherwise required for renewal of business entity and producer licenses as established by the director pursuant to such section. All business entity and producer licenses renewed within the thirty-day period after their expiration dates pursuant to this subsection shall be deemed to have been renewed before their expiration dates.

(4) The director may establish procedures for renewal of licenses by rule and regulation adopted and promulgated pursuant to the Administrative Procedure Act.

(5) An individual insurance producer who allows his or her license to lapse may, within twelve months from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination. Producer licenses reinstated pursuant to this subsection shall be issued only after payment of a reinstatement fee as established by the director pursuant to section 44-4064 in addition to the applicable fee otherwise required for renewal of producer licenses as established by the director pursuant to such section.

(6) The director may grant a licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance, including, but not limited to, a long-term medical disability, a waiver of those procedures. The director may grant a producer a waiver of any examination requirement or any other fine, fee, or sanction imposed for failure to comply with renewal procedures.

(7) The license shall contain the licensee's name, address, and personal identification number, the date of issuance, the lines of authority, the expiration date, and any other information the director deems necessary.

(8) Licensees shall inform the director by any means acceptable to the director of a change of legal name or address within thirty days after the change. Any person failing to provide such notification shall be subject to a fine by the director of not more than five hundred dollars per violation, suspension of the person's license until the change of address is reported to the director, or both.

(9) The director may contract with nongovernmental entities, including the National Association of Insurance Commissioners or any affiliates or subsidiaries that the National Association of Insurance Commissioners oversees, to perform any ministerial functions, including the collection of fees, related to producer licensing that the director may deem appropriate.

Source: Laws 2001, LB 51, § 8; Laws 2015, LB198, § 4; Laws 2023, LB92, § 64.

Operative date April 30, 2024.

Cross References

Administrative Procedure Act, see section 84-920.

**ARTICLE 51
INVESTMENTS**

Section

44-5140. Preferred stock.

44-5141. Common stock; equity interests.

44-5140 Preferred stock.

(1) An insurer may invest in the preferred stock of any corporation which:

(a) Has earned and paid regular dividends at the regular prescribed rate each year upon its preferred stock, if any is or has been outstanding, for not less than five years immediately preceding the purchase of such preferred stock or during such part of such five-year period as it has had preferred stock outstanding; and

(b) Has had no material defaults in principal payments of or interest on any obligations of such corporation and its subsidiaries having a priority equal to or higher than those purchased during the period of five years immediately preceding the date of acquisition or, if outstanding for less than five years, at any time since such obligations were issued.

The earnings of and the regular dividends paid by all predecessor, merged, consolidated, or purchased corporations may be included through the use of consolidated or pro forma statements.

(2) Except as authorized under the Insurance Holding Company System Act, an insurer shall not own more than five percent of the total issued shares of stock of any corporation other than an insurer.

(3) A life insurer's investments authorized under this section shall not exceed the greater of twenty-five percent of its admitted assets or one hundred percent of its policyholders surplus, nor shall a life insurer's investments authorized under this section that are not rated P-1 or P-2 by the Securities Valuation Office exceed ten percent of its admitted assets.

Source: Laws 1991, LB 237, § 40; Laws 2007, LB117, § 17; Laws 2023, LB92, § 65.

Operative date September 2, 2023.

Cross References

Insurance Holding Company System Act, see section 44-2120.

44-5141 Common stock; equity interests.

(1) An insurer may invest in the common stock or rights to purchase or sell common stock of any corporation.

(2)(a) An insurer may invest in equity interests or rights to purchase or sell equity interests in business entities other than general partnerships unless the general partnership is wholly owned by the insurer.

(b) A life insurer shall not invest under this subsection in any investment which the life insurer may invest in under section 44-5140 or 44-5144 or subsection (1) of this section.

(3) A life insurer’s investments authorized under this section shall not exceed the greater of one hundred percent of its policyholders surplus or twenty percent of its admitted assets.

Source: Laws 1991, LB 237, § 41; Laws 1997, LB 273, § 20; Laws 2007, LB117, § 18; Laws 2022, LB863, § 32; Laws 2023, LB92, § 66.
Operative date September 2, 2023.

ARTICLE 65

PET INSURANCE ACT

Section

- 44-6501. Act, how cited.
- 44-6502. Act; purpose; applicability.
- 44-6503. Pet insurer; definitions; limitations or exclusions; use.
- 44-6504. Terms, defined.
- 44-6505. Disclosures, requirements; rights of applicant.
- 44-6506. Preexisting conditions; waiting periods; renewal; benefits; eligibility; limitations.
- 44-6507. Wellness program; restrictions.
- 44-6508. License; training; required.
- 44-6509. Rules and regulations.
- 44-6510. Violation; unfair trade practice.

44-6501 Act, how cited.

Sections 44-6501 to 44-6510 shall be known and may be cited as the Pet Insurance Act.

Source: Laws 2023, LB296, § 1.
Operative date January 1, 2024.

44-6502 Act; purpose; applicability.

(1) The purpose of the Pet Insurance Act is to promote the public welfare by creating a comprehensive legal framework within which pet insurance may be sold in this state.

(2) The requirements of the Pet Insurance Act shall apply to pet insurance policies that are issued to any resident of this state and are sold, solicited, negotiated, or offered in this state and pet insurance policies or certificates that are delivered or issued for delivery in this state.

(3) All other applicable provisions of the insurance laws of this state shall continue to apply to pet insurance, except that the specific provisions of the Pet Insurance Act shall supersede any general provisions of law that would otherwise be applicable to pet insurance.

Source: Laws 2023, LB296, § 2.
Operative date January 1, 2024.

44-6503 Pet insurer; definitions; limitations or exclusions; use.

(1) A pet insurer that uses any of the terms defined in section 44-6504 in a policy of pet insurance shall use such terms as the terms are defined in section 44-6504. A pet insurer shall also make the specific definitions available through a clear and conspicuous link on the main page of the website of the pet insurer or pet insurer’s program administrator.

(2) Nothing in the Pet Insurance Act shall prohibit or limit the types of exclusions a pet insurer may use in a pet insurance policy or require a pet insurer to use in a pet insurance policy any limitation or exclusion set forth in the Pet Insurance Act.

Source: Laws 2023, LB296, § 3.
Operative date January 1, 2024.

44-6504 Terms, defined.

For purposes of the Pet Insurance Act:

(1) Chronic condition means a condition that can be treated or managed, but not cured;

(2) Congenital anomaly or disorder means a condition that is present from birth, whether inherited or caused by the environment, which may cause or contribute to illness or disease;

(3) Hereditary disorder means an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease;

(4) Orthopedic condition refers to a condition affecting the bones, skeletal muscle, cartilage, tendons, ligaments, and joints. Orthopedic condition includes, but is not limited to, elbow dysplasia, hip dysplasia, intervertebral disc degeneration, patellar luxation, and ruptured cranial cruciate ligaments. Orthopedic condition does not include cancer or metabolic, hemopoietic, or autoimmune disease;

(5) Pet insurance policy means a property insurance policy that provides coverage for accidents and illnesses of pets;

(6)(a) Preexisting condition means any condition for which any of the following are true prior to the effective date of a pet insurance policy or during any waiting period under such policy:

(i) A veterinarian provided medical advice;

(ii) The pet received previous treatment; or

(iii) Based on information from verifiable sources, the pet had signs or symptoms directly related to the condition for which a claim is being made.

(b) A condition for which coverage is afforded on a policy cannot be considered a preexisting condition on any renewal of the policy;

(7) Renewal means to issue and deliver at the end of an insurance policy period a policy which supersedes a policy previously issued and delivered by the same pet insurer or affiliated pet insurer and which provides types and limits of coverage substantially similar to those contained in the policy being superseded;

(8) Veterinarian means an individual who holds a valid license to practice veterinary medicine from the appropriate licensing entity in the jurisdiction in which such veterinarian practices;

(9) Veterinary expenses means the costs associated with medical advice, diagnosis, care, or treatment provided by a veterinarian, including, but not limited to, the cost of drugs prescribed by a veterinarian;

(10) Waiting period means the period of time specified in a pet insurance policy that is required to transpire before some or all of the coverage in the

policy can begin. Waiting periods may not be applied to renewals of existing coverage; and

(11) Wellness program means a subscription or reimbursement-based program that is separate from an insurance policy that provides goods and services to promote the general health, safety, or well-being of the pet. If any wellness program undertakes to indemnify another, pays a specified amount upon determinable contingencies, or provides coverage for a fortuitous event, it is transacting the business of insurance and is subject to the insurance laws of this state. This definition is not intended to classify a contract directly between a service provider and a pet owner that only involves the two parties as being in the business of insurance unless other indications of insurance exist.

Source: Laws 2023, LB296, § 4.
Operative date January 1, 2024.

44-6505 Disclosures, requirements; rights of applicant.

(1) A pet insurer transacting pet insurance shall disclose to consumers:

(a) If the policy excludes coverage due to:

- (i) A preexisting condition;
- (ii) A hereditary condition;
- (iii) A congenital anomaly or disorder; or
- (iv) A chronic condition;

(b) If the policy includes any other exclusions and if so, the pet insurer shall include a statement substantially similar to the following:

Other exclusions may apply. Please refer to the exclusions section of the policy for more information;

(c) Any policy provision that limits coverage through a waiting or affiliation period, a deductible, coinsurance, or an annual or lifetime policy limit;

(d) Whether the pet insurer reduces coverage or increases premiums based on the insured's claim history, the age of the covered pet, or a change in the geographic location of the insured; and

(e) If the underwriting company differs from the brand name used to market and sell the product.

(2)(a) Unless the insured has filed a claim under the pet insurance policy, a pet insurance applicant has the right to examine and return the policy, certificate, or rider to the pet insurer or insurance producer within thirty days from its date of receipt and to have the premium refunded if, after examination of the policy, certificate, or rider, the applicant is not satisfied for any reason.

(b) A pet insurance policy, certificate, or rider shall have a notice prominently printed on the first page or attached thereto, including specific instructions to accomplish a return, and shall include a statement substantially similar to the following:

You have up to thirty days from the day you receive this policy, certificate, or rider to review it and return it to the pet insurer if you decide not to keep it. You do not have to tell the pet insurer why you are returning it. If you decide not to keep it, simply return it to the pet insurer at the insurer's administrative office or you may return it to the insurance producer that you bought it from as long as you have not filed a claim. You must return it within thirty days after

the day you first received it. The pet insurer will refund the full amount of any premium paid within thirty days after the pet insurer receives the returned policy, certificate, or rider. The premium refund will be sent directly to the person who paid it. The policy, certificate, or rider will be void as if it had never been issued.

(3) A pet insurer shall clearly disclose a summary description of the basis or formula on which the pet insurer determines claim payments under a pet insurance policy within the policy, prior to policy issuance and through a clear and conspicuous link on the main page of the website of the pet insurer or pet insurer's program administrator.

(4) A pet insurer that uses a benefit schedule to determine claim payment under a pet insurance policy shall:

(a) Clearly disclose the applicable benefit schedule in the policy; and

(b) Disclose all benefit schedules used by the pet insurer under its pet insurance policies through a clear and conspicuous link on the main page of the website of the pet insurer or pet insurer's program administrator.

(5) A pet insurer that determines claim payments under a pet insurance policy based on usual and customary fees, or any other reimbursement limitation based on prevailing veterinary expenses, shall:

(a) Include a usual-and-customary-fee limitation provision in the policy that clearly describes the pet insurer's basis for determining usual and customary fees and how that basis is applied in calculating claim payments; and

(b) Disclose the pet insurer's basis for determining usual and customary fees through a clear and conspicuous link on the main page of the website of the pet insurer or pet insurer's program administrator.

(6) If any medical examination by a veterinarian is required to effectuate coverage, the pet insurer shall clearly and conspicuously disclose the required aspects of the examination prior to purchase and disclose that examination documentation may result in a preexisting condition exclusion.

(7) Waiting periods and the requirements applicable to them shall be clearly and prominently disclosed to consumers prior to policy purchase.

(8)(a) The pet insurer shall include a summary of all policy provisions required in subsections (1) through (7) of this section in a separate document titled Insurer Disclosure of Important Policy Provisions.

(b) The pet insurer shall:

(i) Provide the consumer with a copy of the Insurer Disclosure of Important Policy Provisions document in at least twelve-point bold type; and

(ii) Post the Insurer Disclosure of Important Policy Provisions document through a clear and conspicuous link on the main page of the website of the pet insurer or pet insurer's program administrator.

(9) At the time a pet insurance policy is issued or delivered to a policyholder, the pet insurer shall include a written disclosure with the following information printed in twelve-point bold type:

(a) The mailing address, toll-free telephone number, and website of the Department of Insurance;

(b) The mailing address and customer service telephone number of the pet insurer or insurance producer of record; and

(c) If the policy was issued or delivered by an insurance producer, a statement advising the policyholder to contact the insurance producer for assistance.

(10) The disclosures required by this section shall be in addition to any other disclosure requirements required by law or rule and regulation.

Source: Laws 2023, LB296, § 5.

Operative date January 1, 2024.

44-6506 Preexisting conditions; waiting periods; renewal; benefits; eligibility; limitations.

(1) A pet insurer may issue policies that exclude coverage on the basis of one or more preexisting conditions with appropriate disclosure to the consumer. The pet insurer has the burden of proving that the preexisting condition exclusion applies to the condition for which a claim is being made.

(2)(a) A pet insurer may issue policies that impose waiting periods upon effectuation of the policy that do not exceed thirty days for illness or orthopedic conditions not resulting from an accident. Waiting periods for accidents are prohibited.

(b) A pet insurer utilizing a waiting period shall include a provision in such pet insurer's policy that allows the waiting period to be waived upon completion of a medical examination. The pet insurer may require that:

(i) The examination be conducted by a veterinarian;

(ii) The examination include certain specific elements as long as such elements do not unreasonably restrict a consumer's ability to waive the waiting period; and

(iii) The examination and any required elements be documented and provided to the pet insurer.

(c) The pet insurer shall clearly and prominently disclose if the policy includes a waiting period and any requirements applicable to the waiting period to consumers prior to the policy purchase.

(3) A pet insurer shall not require a veterinary examination of the covered pet for the insured to have such insured's policy renewed.

(4) If a pet insurer includes any prescriptive, wellness, or noninsurance benefits in the policy form, then such benefits shall be considered part of the policy and the pet insurer shall follow all applicable laws, rules, and regulations related to such benefits.

(5) A consumer's eligibility to purchase a pet insurance policy shall not be based on participation, or lack of participation, in a separate wellness program.

Source: Laws 2023, LB296, § 6.

Operative date January 1, 2024.

44-6507 Wellness program; restrictions.

(1) A pet insurer or insurance producer shall not market a wellness program as pet insurance.

(2) If a pet insurer or insurance producer sells a wellness program:

(a) The purchase of the wellness program shall not be a requirement to the purchase of pet insurance;

- (b) The costs of the wellness program shall be separate and identifiable from any pet insurance policy sold by a pet insurer or insurance producer;
 - (c) The terms and conditions for the wellness program shall be separate from any pet insurance policy sold by a pet insurer or insurance producer;
 - (d) The products or coverage available through a wellness program shall not duplicate products or coverages available through the pet insurance policy;
 - (e) The advertising of the wellness program shall not be misleading; and
 - (f) The pet insurer or insurance producer shall provide a written disclosure to consumers in twelve-point bold font that includes:
 - (i) A statement that wellness programs are not insurance;
 - (ii) The mailing address, toll-free telephone number, and website of the Department of Insurance; and
 - (iii) The address and customer service telephone number of the pet insurer or insurance producer of record.
- (3) Coverages included in the pet insurance policy contract described as wellness benefits are insurance.

Source: Laws 2023, LB296, § 7.
Operative date January 1, 2024.

44-6508 License; training; required.

- (1) An insurance producer shall not sell, solicit, or negotiate a pet insurance product until after the insurance producer is appropriately licensed and has completed the required training as provided in subsection (3) of this section.
- (2) A pet insurer shall ensure that its insurance producers are appropriately trained on the coverages and conditions of such insurer’s pet insurance products and have received the training required in subsection (3) of this section.
- (3) Training required for an insurance producer shall include information on:
 - (a) Preexisting conditions and waiting periods;
 - (b) The differences between pet insurance and noninsurance wellness programs;
 - (c) Hereditary disorders, congenital anomalies or disorders, and chronic conditions, and how pet insurance policies interact with such conditions or disorders; and
 - (d) Rating, underwriting, renewal, and other related administrative topics.
- (4) An insurance producer that has satisfied substantially similar training requirements in another state shall be considered to have satisfied the training requirements in this state.

Source: Laws 2023, LB296, § 8.
Operative date January 1, 2024.

44-6509 Rules and regulations.

The Director of Insurance may adopt and promulgate rules and regulations to carry out the Pet Insurance Act.

Source: Laws 2023, LB296, § 9.
Operative date January 1, 2024.

44-6510 Violation; unfair trade practice.

Any violation of the Pet Insurance Act or the rules and regulations adopted and promulgated under the act shall be considered an unfair trade practice under the Unfair Insurance Trade Practices Act in addition to any other remedies and penalties available under the laws of this state.

Source: Laws 2023, LB296, § 10.
Operative date January 1, 2024.

Cross References

Unfair Insurance Trade Practices Act, see section 44-1521.

ARTICLE 94**INSURANCE REGULATORY SANDBOX ACT**

Section

- 44-9401. Act, how cited.
- 44-9402. Purpose of act.
- 44-9403. Terms, defined.
- 44-9404. Regulatory sandbox program; department; powers and duties; application; requirements; limitations; procedure; confidentiality; deadline.
- 44-9405. Sandbox participant; deadline; conditions on participation; scope; department; duties; immunity.
- 44-9406. Disclosures to consumers; required; when; manner.
- 44-9407. Sandbox testing period; termination or extension; requirements.
- 44-9408. Sandbox testing period; extension; request; requirements.
- 44-9409. Records, documents, data; requirements; reports; violation; department powers; report.
- 44-9410. Rules and regulations.

44-9401 Act, how cited.

Sections 44-9401 to 44-9410 shall be known and may be cited as the Insurance Regulatory Sandbox Act.

Source: Laws 2023, LB92, § 88.
Operative date September 2, 2023.

44-9402 Purpose of act.

The purpose of the Insurance Regulatory Sandbox Act is to create a regulatory sandbox program under the Department of Insurance which allows a participant to temporarily test innovative insurance products or services on a limited basis without otherwise being licensed or authorized to act under the laws of the state.

Source: Laws 2023, LB92, § 89.
Operative date September 2, 2023.

44-9403 Terms, defined.

For purposes of the Insurance Regulatory Sandbox Act:

- (1) Applicable agency means a department or agency of the state that, by law, regulates certain types of insurance-related business activity in the state and persons engaged in such insurance-related business activity. This includes the issuance of licenses or any other types of authorization which the department determines would otherwise regulate a sandbox participant;

- (2) Applicant means an individual or entity that is applying to participate in the regulatory sandbox;
- (3) Consumer means a person that purchases or otherwise enters into a transaction agreement to receive an innovative insurance product or service that is being tested by a sandbox participant;
- (4) Department means the Department of Insurance;
- (5) Innovation means the use or incorporation of a new or emerging technology or a new use of existing technology, including blockchain technology, to address a problem, provide a benefit, or otherwise offer a product, service, business model, or delivery mechanism that is not known by the department to have a comparable widespread offering in the state;
- (6) Innovative insurance product or service means an insurance product or service that includes an innovation;
- (7) Insurance product or service means an insurance-related product or service that requires state licensure, registration, or other authorization as regulated by state law, including any insurance-specific business model, delivery mechanism, or element that requires a license, registration, or other authorization;
- (8) Regulatory sandbox means the program created in section 44-9404 which allows a person to temporarily test an innovative insurance product or service on a limited basis without otherwise being licensed or authorized to act under the laws of the state;
- (9) Sandbox participant means a person whose application to participate in the regulatory sandbox is approved in accordance with the Insurance Regulatory Sandbox Act; and
- (10) Test means to provide an innovative insurance product or service in accordance with the Insurance Regulatory Sandbox Act.

Source: Laws 2023, LB92, § 90.

Operative date September 2, 2023.

44-9404 Regulatory sandbox program; department; powers and duties; application; requirements; limitations; procedure; confidentiality; deadline.

- (1) The department shall create and administer a regulatory sandbox program that enables a person to obtain limited access to the market in the state to test an innovative insurance product or service without obtaining a license or without regard to other provisions of Chapter 44 or rules and regulations adopted and promulgated by the department which may be applicable, as determined by the department.
- (2) In administering the regulatory sandbox, the department:
- (a) Shall consult with each applicable agency;
- (b) May enter into agreements with or follow the best practices of the Consumer Financial Protection Bureau or other states that are administering similar programs; and
- (c) May not approve participation in the regulatory sandbox by an applicant or any other participant who has been convicted of, or pled guilty or nolo contendere to, a serious crime:
- (i) Involving theft, fraud, or dishonesty; or

(ii) That bears a substantial relationship to the applicant's or participant's ability to safely or competently participate in the regulatory sandbox.

(3) An applicant for the regulatory sandbox shall submit an application to the department in a form and manner prescribed by the department. The application shall:

- (a) Include a nonrefundable application fee of two hundred fifty dollars;
- (b) Demonstrate the applicant is subject to the jurisdiction of the state;
- (c) Demonstrate the applicant has established a physical or virtual location that is adequately accessible to the department from which testing will be developed and performed and where all required records, documents, and data will be maintained;
- (d) Contain relevant personal and contact information for the application, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the department;
- (e) Disclose any criminal conviction of the applicant or officers, directors, or other participating personnel, if any;
- (f) Demonstrate that the applicant has the necessary personnel, financial and technical expertise, access to capital, and developed plans to test, monitor, and assess the innovative insurance product or service;
- (g) Contain a description of the innovative insurance product or service to be tested, including statements regarding the following:
 - (i) How the innovative insurance product or service is subject to licensing or other authorization requirements outside of the regulatory sandbox, including a specific list of all state laws, regulations, and licensing or other requirements that the applicant is seeking to have waived during the testing period;
 - (ii) How the innovative insurance product or service would benefit consumers;
 - (iii) How the innovative insurance product or service is different from other insurance products or services available in the state;
 - (iv) What risks may confront consumers that use or purchase the innovative insurance product or service;
 - (v) How participating in the regulatory sandbox would enable a successful test of the innovative insurance product or service;
 - (vi) A description of how the applicant will perform ongoing duties after the test; and
 - (vii) How the applicant will end the test and protect consumers if the test fails, including providing evidence of sufficient liability coverage and financial reserves to protect consumers and to protect against insolvency by the applicant; and
- (h) Provide any other required information as determined by the department.

(4) An applicant shall file a separate application for each innovative insurance product or service the applicant wants to test.

(5) The following items shall not be waived as part of any applicant's participation in the regulatory sandbox:

- (a) Laws and regulations not under the jurisdiction of the Director of Insurance;

(b) Any law or regulation required for the department to maintain accreditation by the National Association of Insurance Commissioners;

(c) Laws regarding minimum paid-in capital or surplus required to be possessed or maintained by an insurer or product reserving laws;

(d) The Unfair Insurance Trade Practices Act and the Unfair Insurance Claims Settlement Practices Act;

(e) Any requirement for insurance producers to be licensed; and

(f) The application of any taxes or fees.

(6) After an application is filed and before approving the application, the department may seek any additional information from the applicant that the department determines is necessary.

(7) Subject to subsection (8) of this section, not later than ninety days after the day on which a complete application is received by the department, the department shall inform the applicant as to whether the application is approved for entry into the regulatory sandbox.

(8) The department and an applicant may mutually agree to extend the ninety-day timeline described in subsection (7) of this section.

(9) In reviewing an application under this section, the department shall consult with, and get approval from, each applicable agency before admitting an applicant into the regulatory sandbox. The consultation with an applicable agency may include seeking information about:

(a) Whether the applicable agency has previously issued a license or other authorization to the applicant;

(b) Whether the applicable agency has previously investigated, sanctioned, or pursued legal action against the applicant;

(c) Whether the applicant could obtain a license or other authorization from the applicable agency after exiting the regulatory sandbox; and

(d) Whether certain licensure or other regulations should not be waived even if the applicant is accepted into the regulatory sandbox.

(10) In reviewing an application under this section, the department shall also consider whether a competitor to the applicant is or has been a sandbox participant and weigh that as a factor in determining whether to allow the applicant to also become a sandbox participant.

(11) If the department and each applicable agency approve admitting an applicant into the regulatory sandbox, an applicant may become a sandbox participant. Applicants that become sandbox participants shall incur a participation fee set by the department. The participation fee shall be commensurate with the costs incurred by the department in administering the applicant's participation in the regulatory sandbox. Participation fees shall be dependent on factors such as the size of the applicant and the number of customers the applicant may have, but shall be set at a reasonable amount to encourage participation in the regulatory sandbox.

(12) The department may enter into agreements with other states that have enacted laws that are substantially similar to the Insurance Regulatory Sandbox Act in order to advance the purposes of the act and to facilitate the consideration of applications for participation in the regulatory sandbox from persons that have satisfied the requirements of this section and received approval for participation in similar programs in other states.

(13) The department may deny any application submitted under this section, for any reason, at the department's discretion.

(14) If the department denies an application submitted under this section, the department shall provide to the applicant a written description of the reasons for the denial.

(15) Documents, materials, and other information in the possession or control of the Director of Insurance that are obtained by, created by, or disclosed to the director or any other person under the Insurance Regulatory Sandbox Act are recognized by this state as being proprietary and to contain trade secrets. All such documents, materials, and other information shall be confidential by law and privileged, shall not be a public record subject to disclosure by the director pursuant to sections 84-712 to 84-712.09, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. The director may use the documents, materials, and other information in the furtherance of any regulatory or legal action brought as a part of the director's official duties. The director shall not otherwise make the documents, materials, and other information public without the prior written consent of the applicant. In order to assist in the performance of the director's regulatory duties, the director:

(a) May, upon request, share documents, materials, and other information that are obtained by, created by, or disclosed to the director or any other person under the Insurance Regulatory Sandbox Act, including the confidential and privileged documents, materials, and other information subject to this subsection, with other state, federal, and international financial regulatory agencies, including members of any supervisory college under section 44-2137.01, with the National Association of Insurance Commissioners, and with any third-party consultants designated by the director, if the recipient agrees in writing to maintain the confidentiality and privileged status of the documents, materials, and other information and has verified in writing the legal authority to maintain confidentiality; and

(b) May receive documents, materials, and other information, including otherwise confidential and privileged documents, materials, and other information, from regulatory officials of other foreign or domestic jurisdictions that have enacted laws substantially similar to the Insurance Regulatory Sandbox Act, including members of any supervisory college under section 44-2137.01 and from the National Association of Insurance Commissioners, and shall maintain as confidential or privileged any documents, materials, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.

(16) The department shall not accept any applications for the regulatory sandbox after June 30, 2034.

Source: Laws 2023, LB92, § 91.

Operative date September 2, 2023.

Cross References

Unfair Insurance Claims Settlement Practices Act, see section 44-1536.
Unfair Insurance Trade Practices Act, see section 44-1521.

44-9405 Sandbox participant; deadline; conditions on participation; scope; department; duties; immunity.

(1) If the department approves an application under section 44-9404, the sandbox participant has twelve months after the day on which the application was approved to test the innovative insurance product or service described in the sandbox participant's application.

(2) A sandbox participant testing an innovative insurance product or service within the regulatory sandbox is subject to the following:

(a) Consumers shall be residents of this state;

(b) The department may, on a case-by-case basis, specify the maximum number of consumers that may enter into an agreement with the sandbox participant to use the innovative insurance product or service; and

(c) The department may, on a case-by-case basis, specify the maximum number of innovative insurance products or services that may be offered by a sandbox participant during the test of such product or service.

(3) If a sandbox participant is accepted into the regulatory sandbox, the department shall notify other businesses in the industry that a regulatory waiver was granted in order to afford other businesses the opportunity to apply for the same regulatory waiver if they so choose.

(4) This section does not restrict a sandbox participant who holds a license or other authorization in another jurisdiction from acting in accordance with that license or other authorization.

(5) A sandbox participant is deemed to possess an appropriate license under the laws of the state for the purposes of any provision of federal law requiring state licensure or authorization.

(6) A sandbox participant that is testing an innovative insurance product or service is not subject to state laws, regulations, licensing requirements, or authorization requirements that were identified by the sandbox participant's application and have been waived in writing by the department.

(7) Notwithstanding any other provision of the Insurance Regulatory Sandbox Act, a sandbox participant does not have immunity related to any criminal offense committed during the sandbox participant's participation in the regulatory sandbox.

(8) By written notice, the department may end a sandbox participant's participation in the regulatory sandbox at any time and for any reason, including if the department determines a sandbox participant is not operating in good faith to bring an innovative insurance product or service to market.

(9) The department and the department's employees are not liable for any business losses or the recouping of application expenses related to the regulatory sandbox, including for:

(a) Denying an applicant's application to participate in the regulatory sandbox for any reason; or

(b) Ending a sandbox participant's participation in the regulatory sandbox at any time and for any reason.

(10) No guaranty association in the state may be held liable for business losses or liabilities incurred as a result of activities undertaken by a sandbox participant while participating in the regulatory sandbox.

Source: Laws 2023, LB92, § 92.

Operative date September 2, 2023.

44-9406 Disclosures to consumers; required; when; manner.

(1) Prior to the sale of an innovative insurance product or service to a consumer, the sandbox participant shall disclose the following to the consumer in a clear and conspicuous format in English and Spanish:

- (a) The name and contact information of the sandbox participant;
- (b) That the innovative insurance product or service is authorized pursuant to the Insurance Regulatory Sandbox Act for a temporary period of one year with a possible extension of one additional year, but for no more than two years;
- (c) Any risk to the consumer associated with the purchase of the innovative insurance product or service;
- (d) That neither the State of Nebraska nor the Department of Insurance recommends the innovative insurance product or service and that neither the state nor the department is subject to any liability for losses or damages caused by such product or service;
- (e) That the consumer may contact the Department of Insurance to file a complaint regarding the innovative insurance product or service. Contact information for the Department of Insurance shall also be provided;
- (f) That state insurance insolvency guaranty funds are not available for the innovative insurance product or service; and
- (g) Any other statements or additional disclosures that may be required by the Department of Insurance.

(2) The disclosures required by subsection (1) of this section shall be provided to consumers through a written disclosure statement. Sandbox participants shall keep a signed copy of the disclosure statement on file and be able to produce the statement for the department upon request.

(3) Sandbox participants shall also note on any websites, social media postings, advertisements, and promotional materials of any kind all potential risks for consumers associated with the purchase of the innovative insurance product or service.

Source: Laws 2023, LB92, § 93.

Operative date September 2, 2023.

44-9407 Sandbox testing period; termination or extension; requirements.

(1) At least thirty days before the end of the twelve-month regulatory sandbox testing period, a sandbox participant shall:

- (a) Notify the department that the sandbox participant will exit the regulatory sandbox, discontinue the sandbox participant's test, and stop offering any innovative insurance product or service in the regulatory sandbox within sixty days after the day on which the twelve-month testing period ends; or
- (b) Seek an extension in accordance with section 44-9408.

(2) Subject to subsection (3) of this section, if the department does not receive notification as required by subsection (1) of this section, the regulatory sandbox testing period ends at the end of the twelve-month testing period and the sandbox participant shall immediately stop offering each innovative insurance product or service being tested.

(3) If a test includes offering an innovative insurance product or service that requires ongoing duties, the sandbox participant shall continue to fulfill those

duties or arrange for another person to fulfill those duties after the date on which the sandbox participant exits the regulatory sandbox.

Source: Laws 2023, LB92, § 94.

Operative date September 2, 2023.

44-9408 Sandbox testing period; extension; request; requirements.

(1) Not later than thirty days before the end of the twelve-month regulatory sandbox testing period, a sandbox participant may request an extension of the regulatory sandbox testing period for the purpose of obtaining a license or other authorization.

(2) The department shall grant or deny a request for an extension by the end of the twelve-month regulatory sandbox testing period.

(3) The department may grant one extension in accordance with this section for not more than twelve months after the end of the regulatory sandbox testing period.

(4) A sandbox participant that obtains an extension in accordance with this section shall provide the department with a written report every three months that provides an update on efforts to obtain a license or other authorization required by law, including any applications submitted for licensure or other authorization, rejected applications, or issued licenses or other authorizations.

Source: Laws 2023, LB92, § 95.

Operative date September 2, 2023.

44-9409 Records, documents, data; requirements; reports; violation; department powers; report.

(1) A sandbox participant shall retain records, documents, and data produced in the ordinary course of business regarding an innovative insurance product or service tested in the regulatory sandbox.

(2) If an innovative insurance product or service fails before the end of a testing period, the sandbox participant shall notify the department and report on actions taken by the sandbox participant to ensure consumers have not been harmed as a result of the failure.

(3) The department shall establish quarterly reporting requirements for a sandbox participant, including information about any customer complaints.

(4) The department may request records, documents, and data from a sandbox participant and, upon the department's request, a sandbox participant shall make such records, documents, and data available for inspection by the department.

(5) If the department determines that a sandbox participant has engaged in, is engaging in, or is about to engage in any practice or transaction that is in violation of Chapter 44, the department may remove a sandbox participant from the regulatory sandbox. If the department determines that the practice or transaction is in violation of state or federal criminal law, the department shall remove the sandbox participant from the regulatory sandbox.

(6) The department shall provide a written report upon request by a member of the Legislature that provides information regarding each sandbox participant

and that provides recommendations regarding the effectiveness of the Insurance Regulatory Sandbox Act.

Source: Laws 2023, LB92, § 96.

Operative date September 2, 2023.

44-9410 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Insurance Regulatory Sandbox Act.

Source: Laws 2023, LB92, § 97.

Operative date September 2, 2023.

CHAPTER 45

INTEREST, LOANS, AND DEBT

Article.

1. Interest Rates and Loans.
 - (f) Loan Brokers. 45-191.01, 45-191.04.
7. Residential Mortgage Licensing. 45-735.
10. Nebraska Installment Loan Act. 45-1002 to 45-1006.

ARTICLE 1

INTEREST RATES AND LOANS

(f) LOAN BROKERS

Section

- 45-191.01. Loan brokerage agreement; written disclosure statement; requirements.
 45-191.04. Loan brokerage agreement; requirements; right to cancel.

(f) LOAN BROKERS

45-191.01 Loan brokerage agreement; written disclosure statement; requirements.

(1) Prior to a borrower signing a loan brokerage agreement, the loan broker shall give the borrower a written disclosure statement. The cover sheet of the disclosure statement shall have printed, in at least ten-point boldface capital letters, the title **DISCLOSURES REQUIRED BY NEBRASKA LAW**. The following statement, printed in at least ten-point type, shall appear under the title:

THE STATE OF NEBRASKA HAS NOT REVIEWED AND DOES NOT APPROVE, RECOMMEND, ENDORSE, OR SPONSOR ANY LOAN BROKERAGE AGREEMENT. THE INFORMATION CONTAINED IN THIS DISCLOSURE DOCUMENT HAS NOT BEEN VERIFIED BY THE STATE. IF YOU HAVE QUESTIONS, SEEK LEGAL ADVICE BEFORE YOU SIGN A LOAN BROKERAGE AGREEMENT.

Only the title and the statement shall appear on the cover sheet.

(2) The body of the disclosure statement shall contain the following information:

(a) The name, street address, and telephone number of the loan broker, the names under which the loan broker does, has done, or intends to do business, the name and street address of any parent or affiliated company, and the electronic mail and Internet address of the loan broker;

(b) A statement as to whether the loan broker does business as an individual, a partnership, a corporation, or another organizational form, including identification of the state of incorporation or formation;

(c) How long the loan broker has done business;

(d) The number of loan brokerage agreements the loan broker has entered into in the previous twelve months;

(e) The number of loans the loan broker has obtained for borrowers in the previous twelve months;

(f) A description of the services the loan broker agrees to perform for the borrower;

(g) The conditions under which the borrower is obligated to pay the loan broker. This disclosure shall be in boldface type;

(h) The names, titles, and principal occupations for the past five years of all officers, directors, or persons occupying similar positions responsible for the loan broker's business activities;

(i) A statement whether the loan broker or any person identified in subdivision (h) of this subsection:

(i) Has been convicted of a felony or misdemeanor or pleaded nolo contendere to a felony or misdemeanor charge if such felony or misdemeanor involved fraud, embezzlement, fraudulent conversion, or misappropriation of property;

(ii) Has been held liable in a civil action by final judgment or consented to the entry of a stipulated judgment if the civil action alleged fraud, embezzlement, fraudulent conversion, or misappropriation of property or the use of untrue or misleading representations in an attempt to sell or dispose of real or personal property or the use of unfair, unlawful, or deceptive business practices; or

(iii) Is subject to any currently effective injunction or restrictive order relating to business activity as the result of an action brought by a public agency or department including, but not limited to, action affecting any vocational license; and

(j) Any other information the director requires.

Source: Laws 1993, LB 270, § 3; Laws 2007, LB124, § 29; Laws 2017, LB184, § 2; Laws 2023, LB92, § 67.
Operative date June 7, 2023.

45-191.04 Loan brokerage agreement; requirements; right to cancel.

(1) A loan brokerage agreement shall be in writing and shall be signed by the loan broker and the borrower. The loan broker shall furnish the borrower a copy of such signed loan brokerage agreement at the time the borrower signs it.

(2) The borrower has the right to cancel a loan brokerage agreement for any reason at any time within five business days after the date the parties sign the agreement. The loan brokerage agreement shall set forth the borrower's right to cancel and the procedures to be followed when an agreement is canceled.

(3) A loan brokerage agreement shall set forth in at least ten-point type, or handwriting of at least equivalent size, the following:

(a) The terms and conditions of payment;

(b) A full and detailed description of the acts or services the loan broker will undertake to perform for the borrower;

(c) The loan broker's principal business address, telephone number, and electronic mail and Internet address and the name, address, telephone number, and electronic mail and Internet address, if any, of its agent in the State of Nebraska authorized to receive service of process;

(d) The business form of the loan broker, whether a corporation, partnership, limited liability company, or otherwise; and

(e) The following notice of the borrower's right to cancel the loan brokerage agreement pursuant to this section:

“You have five business days in which you may cancel this agreement for any reason by mailing or delivering written notice to the loan broker. The five business days shall expire on (last date to mail or deliver notice), and notice of cancellation should be mailed to(loan broker’s name and business street address). If you choose to mail your notice, it must be placed in the United States mail properly addressed, first-class postage prepaid, and post-marked before midnight of the above date. If you choose to deliver your notice to the loan broker directly, it must be delivered to the loan broker by the end of the normal business day on the above date. Within five business days after receipt of the notice of cancellation, the loan broker shall return to you all sums paid by you to the loan broker pursuant to this agreement.”

The notice shall be set forth immediately above the place at which the borrower signs the loan brokerage agreement.

Source: Laws 1993, LB 270, § 6; Laws 2001, LB 53, § 89; Laws 2007, LB124, § 30; Laws 2017, LB184, § 3; Laws 2023, LB92, § 68. Operative date June 7, 2023.

ARTICLE 7

RESIDENTIAL MORTGAGE LICENSING

Section

45-735. Mortgage loan originator; employee or independent agent; restriction on activities and remote work arrangements; written agency contract; notification to department; fee; notice of termination.

45-735 Mortgage loan originator; employee or independent agent; restriction on activities and remote work arrangements; written agency contract; notification to department; fee; notice of termination.

(1) A mortgage loan originator shall be an employee or independent agent of a single licensed mortgage banker, registrant, or installment loan company that shall directly supervise, control, and maintain responsibility for the acts and omissions of the mortgage loan originator.

(2)(a) A mortgage loan originator shall not engage in mortgage loan origination activities at any location that is not a main office location of a licensed mortgage banker, registrant, or installment loan company or a branch office of a licensed mortgage banker or registrant. The licensed mortgage banker, registrant, or installment loan company shall designate the location or locations at which each mortgage loan originator is originating residential mortgage loans.

(b) The department may adopt and promulgate rules, regulations, and orders to authorize and regulate the use of remote work arrangements conducted outside of a main office location or branch office by employees or agents, including mortgage loan originators, of licensed mortgage bankers, registrants, or installment loan companies.

(3) Any licensed mortgage banker, registrant, or installment loan company who engages an independent agent as a mortgage loan originator shall maintain a written agency contract with such mortgage loan originator. Such written agency contract shall provide that the mortgage loan originator is originating loans exclusively for the licensed mortgage banker, registrant, or installment loan company.

(4) A licensed mortgage banker, registrant, or installment loan company that has hired a licensed mortgage loan originator as an employee or entered into an independent agent agreement with such licensed mortgage loan originator shall provide notification to the department as soon as reasonably possible after entering into such relationship, along with a fee of fifty dollars. The employing entity shall not allow the mortgage loan originator to conduct such activity in this state prior to such notification to the department and confirmation that the department has received notice of the termination of the mortgage loan originator's prior employment.

(5) A licensed mortgage banker, registrant, or installment loan company shall notify the department no later than ten days after the termination, whether voluntary or involuntary, of a mortgage loan originator unless the mortgage loan originator has previously notified the department of the termination.

Source: Laws 2009, LB328, § 20; Laws 2023, LB92, § 69.
Operative date June 7, 2023.

ARTICLE 10

NEBRASKA INSTALLMENT LOAN ACT

Section

- 45-1002. Terms, defined; act; applicability.
45-1003. Installment loans; financial institution ineligible; license required, when.
45-1006. Installment loans; application hearing; protest; procedure.

45-1002 Terms, defined; act; applicability.

(1) For purposes of the Nebraska Installment Loan Act:

- (a) Applicant means a person applying for a license under the act;
- (b) Breach of security of the system means unauthorized acquisition of data that compromises the security, confidentiality, or integrity of the information maintained by the Nationwide Mortgage Licensing System and Registry, its affiliates, or its subsidiaries;
- (c) Consumer means an individual who is a resident of Nebraska and who seeks to obtain, obtains, or has obtained a loan that is to be used primarily for personal, family, or household purposes;
- (d) Department means the Department of Banking and Finance;
- (e) Debt cancellation contract means a loan term or contractual arrangement modifying loan terms under which a financial institution or licensee agrees to cancel all or part of a borrower's obligation to repay an extension of credit from the financial institution or licensee upon the occurrence of a specified event. The debt cancellation contract may be separate from or a part of other loan documents. The term debt cancellation contract does not include loan payment deferral arrangements in which the triggering event is the borrower's unilateral election to defer repayment or the financial institution's or licensee's unilateral decision to allow a deferral of repayment;
- (f) Debt suspension contract means a loan term or contractual arrangement modifying loan terms under which a financial institution or licensee agrees to suspend all or part of a borrower's obligation to repay an extension of credit from the financial institution or licensee upon the occurrence of a specified event. The debt suspension contract may be separate from or a part of other loan documents. The term debt suspension contract does not include loan

payment deferral arrangements in which the triggering event is the borrower's unilateral election to defer repayment or the financial institution's or licensee's unilateral decision to allow a deferral of repayment;

(g) Director means the Director of Banking and Finance;

(h) Financial institution has the same meaning as in section 8-101.03;

(i) Guaranteed asset protection waiver means a waiver that is offered, sold, or provided in accordance with the Guaranteed Asset Protection Waiver Act;

(j) Licensee means any person who obtains a license under the Nebraska Installment Loan Act;

(k) Loan means a loan or any extension of credit to a consumer originated or made with an interest rate greater than the maximum interest rate allowed under section 45-101.03 and a principal balance of less than twenty-five thousand dollars;

(l)(i) Mortgage loan originator means an individual who for compensation or gain (A) takes a residential mortgage loan application or (B) offers or negotiates terms of a residential mortgage loan.

(ii) Mortgage loan originator does not include (A) any individual who is not otherwise described in subdivision (i)(A) of this subdivision and who performs purely administrative or clerical tasks on behalf of a person who is described in subdivision (i) of this subdivision, (B) a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator, or (C) a person or entity solely involved in extensions of credit relating to time-share programs as defined in section 76-1702;

(m) Nationwide Mortgage Licensing System and Registry means a licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage loan originators, mortgage bankers, installment loan companies, and other state-regulated financial services entities and industries;

(n) Person means individual, partnership, limited liability company, association, financial institution, trust, corporation, and any other legal entity; and

(o) Real property means an owner-occupied single-family, two-family, three-family, or four-family dwelling which is located in this state, which is occupied, used, or intended to be occupied or used for residential purposes, and which is, or is intended to be, permanently affixed to the land.

(2) Except as provided in subsection (3) of section 45-1017 and subsection (4) of section 45-1019, no revenue arising under the Nebraska Installment Loan Act shall inure to any school fund of the State of Nebraska or any of its governmental subdivisions.

(3) Nothing in the Nebraska Installment Loan Act applies to any loan made by a person who is not a licensee if the interest on the loan does not exceed the maximum rate permitted by section 45-101.03.

Source: Laws 1941, c. 90, § 1, p. 345; C.S.Supp.,1941, § 45-131; Laws 1943, c. 107, § 1, p. 369; R.S.1943, § 45-114; Laws 1961, c. 225, § 1, p. 668; Laws 1963, Spec. Sess., c. 7, § 7, p. 92; Laws 1979,

LB 87, § 1; Laws 1982, LB 941, § 1; Laws 1993, LB 121, § 264; Laws 1997, LB 137, § 20; Laws 1997, LB 555, § 3; R.S.1943, (1998), § 45-114; Laws 2001, LB 53, § 30; Laws 2003, LB 131, § 30; Laws 2003, LB 217, § 38; Laws 2006, LB 876, § 48; Laws 2009, LB328, § 41; Laws 2010, LB571, § 10; Laws 2010, LB892, § 19; Laws 2011, LB77, § 3; Laws 2012, LB965, § 21; Laws 2017, LB140, § 156; Laws 2023, LB92, § 70.
Operative date June 7, 2023.

Cross References

Guaranteed Asset Protection Waiver Act, see section 45-1101.

45-1003 Installment loans; financial institution ineligible; license required, when.

No financial institution is eligible for a license or to make loans under the Nebraska Installment Loan Act.

A license shall be required for any person that is not a financial institution who, at or after the time a loan is made by a financial institution, markets, owns in whole or in part, holds, acquires, services, or otherwise participates in such loan.

Source: Laws 1965, c. 31, § 3, p. 214; R.S.1943, (1987), § 8-817; Laws 1988, LB 795, § 6; R.S.1943, (1998), § 45-115; Laws 2001, LB 53, § 31; Laws 2003, LB 131, § 31; Laws 2003, LB 217, § 39; Laws 2023, LB92, § 71.
Operative date June 7, 2023.

45-1006 Installment loans; application hearing; protest; procedure.

(1) When an application for an original installment loan license has been accepted by the director as substantially complete, notice of the filing of the application shall be published by the department three successive weeks in a legal newspaper published in or of general circulation in the county where the applicant proposes to operate the business of lending money. A public hearing shall be held on each application except as provided in subsection (2) of this section. The date for hearing shall not be less than thirty days after the last publication. Written protest against the issuance of the license may be filed with the department by any person not less than five days before the date set for hearing. The director, in his or her discretion, may grant a continuance. The costs of the hearing shall be paid by the applicant. The director may deny any application for license after hearing. The director shall, in his or her discretion, make examination and inspection concerning the propriety of the issuance of a license to any applicant. The cost of such examination and inspection shall be paid by the applicant.

(2) The director may waive the hearing requirements of subsection (1) of this section if (a) the applicant (i) does not originate loans under the Nebraska Installment Loan Act or (ii) has held, and operated under, a license to engage in the business of lending money in Nebraska pursuant to the Nebraska Installment Loan Act for at least one calendar year immediately prior to the filing of the application, (b) no written protest against the issuance of the license has been filed with the department within fifteen days after publication of a notice of the filing of the application one time in a newspaper of general circulation in the county where the applicant proposes to operate the business of lending

money, and (c) in the judgment of the director, the experience, character, and general fitness of the applicant warrant the belief that the applicant will comply with the Nebraska Installment Loan Act.

(3) The expense of any publication made pursuant to this section shall be paid by the applicant.

Source: Laws 1941, c. 90, § 11, p. 349; C.S.Supp.,1941, § 45-139; R.S. 1943, § 45-118; Laws 1997, LB 555, § 6; Laws 1999, LB 396, § 25; R.S.Supp.,2000, § 45-118; Laws 2001, LB 53, § 34; Laws 2005, LB 533, § 59; Laws 2008, LB851, § 25; Laws 2023, LB92, § 72.

Operative date June 7, 2023.

CHAPTER 46

IRRIGATION AND REGULATION OF WATER

Article.

1. Irrigation Districts.
 - (v) Surface Water Irrigation Infrastructure. 46-1,164.

ARTICLE 1

IRRIGATION DISTRICTS

(v) SURFACE WATER IRRIGATION INFRASTRUCTURE

Section

46-1,164. Surface Water Irrigation Infrastructure Fund; created; use; investment.

(v) SURFACE WATER IRRIGATION INFRASTRUCTURE

46-1,164 Surface Water Irrigation Infrastructure Fund; created; use; investment.

There is hereby created the Surface Water Irrigation Infrastructure Fund to be administered by the Department of Natural Resources. The fund shall be used to provide grants in accordance with section 46-1,165 to irrigation districts. There shall be a one-time transfer of fifty million dollars from the Cash Reserve Fund to the Surface Water Irrigation Infrastructure Fund to carry out the purposes of section 46-1,165. Any money in the Surface Water Irrigation Infrastructure 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. Investment earnings from investment of money in the fund shall be credited to the fund.

Source: Laws 2022, LB1012, § 9; Laws 2023, LB818, § 11.
Effective date May 25, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

CHAPTER 48

LABOR

Article.

1. Workers' Compensation.
 - Part I—Compensation by Action at Law, Modification of Remedies. 48-101.01.
 - Part II—Elective Compensation.
 - (e) Settlement and Payment of Compensation. 48-145.
 - Part IV—Nebraska Workers' Compensation Court. 48-152 to 48-174.
6. Employment Security. 48-622.02 to 48-652.
12. Wages.
 - (a) Minimum Wages. 48-1203.
21. Contractor Registration. 48-2103, 48-2107.

ARTICLE 1

WORKERS' COMPENSATION

PART I. COMPENSATION BY ACTION AT LAW, MODIFICATION OF REMEDIES

Section

- 48-101.01. Mental injuries and mental illness; first responder; frontline state employee; county correctional officer; legislative findings; evidentiary burden; compensation; when; first responder; mental health examination; resilience training; reimbursement; department; duties.

PART II. ELECTIVE COMPENSATION

(e) SETTLEMENT AND PAYMENT OF COMPENSATION

- 48-145. Employers; compensation insurance required; exceptions; effect of failure to comply; self-insurer; payments required; deposit with State Treasurer; credited to Compensation Court Cash Fund.

PART IV. NEBRASKA WORKERS' COMPENSATION COURT

- 48-152. Nebraska Workers' Compensation Court; creation; jurisdiction; judges; selected or retained in office.
- 48-153. Judges; number; term; continuance in office; prohibition on holding other office or pursuing other occupation.
- 48-163. Compensation court; rules and regulations; procedures for adoption; powers and duties.
- 48-164. Compensation court; rules and regulations.
- 48-174. Summons; service; return.

PART I

COMPENSATION BY ACTION AT LAW, MODIFICATION OF REMEDIES

48-101.01 Mental injuries and mental illness; first responder; frontline state employee; county correctional officer; legislative findings; evidentiary burden; compensation; when; first responder; mental health examination; resilience training; reimbursement; department; duties.

(1) The Legislature finds and declares:

(a) The occupations of first responders are recognized as stressful occupations. Only our nation's combat soldiers endure more stress. Similar to military personnel, first responders face unique and uniquely dangerous risks in their

sworn mission to keep the public safe. They rely on each other for survival to protect the communities they serve;

(b) On any given day, first responders can be called on to make life and death decisions, witness a young child dying with the child's grief-stricken family, make a decision that will affect a community member for the rest of such person's life, or be exposed to a myriad of communicable diseases and known carcinogens;

(c) On any given day, first responders protect high-risk individuals from themselves and protect the community from such individuals;

(d) First responders are constantly at significant risk of bodily harm or physical assault while they perform their duties;

(e) Constant, cumulative exposure to horrific events make first responders uniquely susceptible to the emotional and behavioral impacts of job-related stressors;

(f) Trauma-related injuries can become overwhelming and manifest in post-traumatic stress, which may result in substance use disorders and even, tragically, suicide; and

(g) It is imperative for society to recognize occupational injuries related to post-traumatic stress and to promptly seek diagnosis and treatment without stigma. This includes recognizing that mental injury and mental illness as a result of trauma is not disordered, but is a normal and natural human response to trauma, the negative effects of which can be ameliorated through diagnosis and effective treatment.

(2) Personal injury includes mental injuries and mental illness unaccompanied by physical injury for an employee who is a first responder, frontline state employee, or county correctional officer if such employee:

(a) Establishes that the employee's employment conditions causing the mental injury or mental illness were extraordinary and unusual in comparison to the normal conditions of the particular employment; and

(b) Establishes, through a mental health professional, the medical causation between the mental injury or mental illness and the employment conditions by medical evidence.

(3) The employee bears the burden of establishing the matters described in subsection (2) of this section by a preponderance of the evidence.

(4) Until January 1, 2028, a first responder may establish prima facie evidence of a personal injury that is a mental injury or mental illness if the first responder:

(a) Presents evidence that the first responder underwent a mental health examination by a mental health professional upon entry into such service or subsequent to such entry and before the onset of the mental injury or mental illness and such examination did not reveal the mental injury or mental illness for which the first responder seeks compensation;

(b) Presents testimony or an affidavit from a mental health professional stating the first responder suffers from a mental injury or mental illness caused by one or more events or series of events which cumulatively produced the mental injury or mental illness which brought about the need for medical attention and the interruption of employment;

(c) Presents evidence that such events or series of events arose out of and in the course of the first responder's employment; and

(d) Presents evidence that, prior to the employment conditions which caused the mental injury or mental illness, the first responder had participated in resilience training and updated the training at least annually thereafter.

(5) For purposes of this section, mental injuries and mental illness arising out of and in the course of employment unaccompanied by physical injury are not considered compensable if they result from any event or series of events which are incidental to normal employer and employee relations, including, but not limited to, personnel actions by the employer such as disciplinary actions, work evaluations, transfers, promotions, demotions, salary reviews, or terminations.

(6)(a) The Department of Health and Human Services shall provide reimbursement for the cost of any of the following to the extent not reimbursed by the first responder's employer: A mental health examination by a mental health professional upon entry into such service or subsequent to such entry and before the onset of a mental injury or mental illness for which compensation is sought; initial resilience training; and annual resilience training. The department shall pay reimbursement at a rate determined by the Critical Incident Stress Management Program under section 71-7104. Reimbursement for resilience training shall be subject to the annual limit set by such program under section 71-7104.

(b) To obtain reimbursement under this subsection, a first responder shall submit an application to the Department of Health and Human Services on a form and in a manner prescribed by the department.

(7) The Department of Health and Human Services shall maintain and annually update records of first responders who have completed annual resilience training.

(8) For purposes of this section:

(a) County correctional officer means a correctional officer employed by a high-population county whose:

(i) Position obligates such employee to maintain order and custody of inmates in a county jail; and

(ii) Duties involve regular and direct interaction with high-risk individuals;

(b) Custody means:

(i) Under the charge or control of a state institution or state agency and includes time spent outside of the state institution or state agency; or

(ii) In the custody of a county jail in a high-population county or in the process of being placed in the custody of a county jail in a high-population county;

(c) First responder means a sheriff, a deputy sheriff, a police officer, an officer of the Nebraska State Patrol, a volunteer or paid firefighter, or a volunteer or paid individual licensed under a licensure classification in subdivision (1) of section 38-1217 who provides medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury;

(d) Frontline state employee means an employee of the Department of Correctional Services or the Department of Health and Human Services whose duties involve regular and direct interaction with high-risk individuals;

(e) High-population county means a county with more than three hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census;

(f) High-risk individual means an individual in custody for whom violent or physically intimidating behavior is common, including, but not limited to, a committed offender as defined in section 83-170, a patient at a regional center as defined in section 71-911, a juvenile committed to a youth rehabilitation and treatment center, and a person in the custody of a county jail in a high-population county or in the process of being placed in the custody of a county jail in a high-population county;

(g) Mental health professional means:

(i) A practicing physician licensed to practice medicine in this state under the Medicine and Surgery Practice Act;

(ii) A practicing psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111 or as provided in similar provisions of the Psychology Interjurisdictional Compact;

(iii) A person licensed as an independent mental health practitioner under the Mental Health Practice Act; or

(iv) A professional counselor who holds a privilege to practice in Nebraska as a professional counselor under the Licensed Professional Counselors Interstate Compact; and

(h) Resilience training means training that meets the guidelines established by the Critical Incident Stress Management Program under section 71-7104 and that teaches how to adapt to, manage, and recover from adversity, trauma, tragedy, threats, or significant sources of stress.

(9) All other provisions of the Nebraska Workers' Compensation Act apply to this section.

Source: Laws 2010, LB780, § 1; Laws 2012, LB646, § 2; Laws 2017, LB444, § 2; Laws 2020, LB963, § 1; Laws 2021, LB273, § 5; Laws 2021, LB407, § 1; Laws 2022, LB752, § 28; Laws 2023, LB191, § 6.

Operative date September 2, 2023.

Cross References

Licensed Professional Counselors Interstate Compact, see section 38-4201.

Medicine and Surgery Practice Act, see section 38-2001.

Mental Health Practice Act, see section 38-2101.

Psychology Interjurisdictional Compact, see section 38-3901.

PART II

ELECTIVE COMPENSATION

(e) SETTLEMENT AND PAYMENT OF COMPENSATION

48-145 Employers; compensation insurance required; exceptions; effect of failure to comply; self-insurer; payments required; deposit with State Treasurer; credited to Compensation Court Cash Fund.

To secure the payment of compensation under the Nebraska Workers' Compensation Act:

(1) Every employer in the occupations described in section 48-106, except the State of Nebraska and any governmental agency created by the state, shall either (a) insure and keep insured its liability under such act in some corporation, association, or organization authorized and licensed to transact the business of workers' compensation insurance in this state, (b) in the case of an employer who is a lessor of one or more commercial vehicles leased to a self-insured motor carrier, be a party to an effective agreement with the self-insured motor carrier under section 48-115.02, (c) be a member of a risk management pool authorized and providing group self-insurance of workers' compensation liability pursuant to the Intergovernmental Risk Management Act, or (d) with approval of the Nebraska Workers' Compensation Court, self-insure its workers' compensation liability.

An employer seeking approval to self-insure shall make application to the compensation court in the form and manner as the compensation court may prescribe, meet such minimum standards as the compensation court shall adopt and promulgate by rule and regulation, and furnish to the compensation court satisfactory proof of financial ability to pay direct the compensation in the amount and manner when due as provided for in the Nebraska Workers' Compensation Act. Approval is valid for the period prescribed by the compensation court unless earlier revoked pursuant to this subdivision or subsection (1) of section 48-146.02. Notwithstanding subdivision (1)(d) of this section, a professional employer organization shall not be eligible to self-insure its workers' compensation liability. The compensation court may by rule and regulation require the deposit of an acceptable security, indemnity, trust, or bond to secure the payment of compensation liabilities as they are incurred. The agreement or document creating a trust for use under this section shall contain a provision that the trust may only be terminated upon the consent and approval of the compensation court. Any beneficial interest in the trust principal shall be only for the benefit of the past or present employees of the self-insurer and any persons to whom the self-insurer has agreed to pay benefits under subdivision (11) of section 48-115 and section 48-115.02. Any limitation on the termination of a trust and all other restrictions on the ownership or transfer of beneficial interest in the trust assets contained in such agreement or document creating the trust shall be enforceable, except that any limitation or restriction shall be enforceable only if authorized and approved by the compensation court and specifically delineated in the agreement or document. The trustee of any trust created to satisfy the requirements of this section may invest the trust assets in the same manner authorized under subdivisions (1)(a) through (i) of section 30-3209 for corporate trustees holding retirement or pension funds for the benefit of employees or former employees of cities, villages, school districts, or governmental or political subdivisions, except that the trustee shall not invest trust assets into stocks, bonds, or other obligations of the trustor. If, as a result of such investments, the value of the trust assets is reduced below the acceptable trust amount required by the compensation court, then the trustor shall deposit additional trust assets to account for the shortfall.

Notwithstanding any other provision of the Nebraska Workers' Compensation Act, a three-judge panel of the compensation court may, after notice and hearing, revoke approval as a self-insurer if it finds that the financial condition of the self-insurer or the failure of the self-insurer to comply with an obligation under the act poses a serious threat to the public health, safety, or welfare. The

Attorney General, when requested by the administrator of the compensation court, may file a motion pursuant to section 48-162.03 for an order directing a self-insurer to appear before a three-judge panel of the compensation court and show cause as to why the panel should not revoke approval as a self-insurer pursuant to this subdivision. The Attorney General shall be considered a party for purposes of such motion. The Attorney General may appear before the three-judge panel and present evidence that the financial condition of the self-insurer or the failure of the self-insurer to comply with an obligation under the act poses a serious threat to the public health, safety, or welfare. The presiding judge shall rule on a motion of the Attorney General pursuant to this subdivision and, if applicable, shall appoint judges of the compensation court to serve on the three-judge panel. The presiding judge shall not serve on such panel. Appeal from a revocation pursuant to this subdivision shall be in accordance with section 48-185. No such appeal shall operate as a supersedeas unless the self-insurer executes to the compensation court a bond with one or more sureties authorized to do business within the State of Nebraska in an amount determined by the three-judge panel to be sufficient to satisfy the obligations of the self-insurer under the act;

(2) An approved self-insurer shall furnish to the State Treasurer an annual amount equal to two and one-half percent of the prospective loss costs for like employment but in no event less than twenty-five dollars. Prospective loss costs is defined in section 48-151. The compensation court is the sole judge as to the prospective loss costs that shall be used. All money which a self-insurer is required to pay to the State Treasurer, under this subdivision, shall be computed and tabulated under oath as of January 1 and paid to the State Treasurer immediately thereafter. The compensation court or designee of the compensation court may audit the payroll of a self-insurer at the compensation court's discretion. All money paid by a self-insurer under this subdivision shall be credited to the Compensation Court Cash Fund;

(3) Every employer who fails, neglects, or refuses to comply with the conditions set forth in subdivision (1) or (2) of this section shall be required to respond in damages to an employee for personal injuries, or when personal injuries result in the death of an employee, then to his or her dependents; and

(4) Any security, indemnity, trust, or bond provided by a self-insurer pursuant to subdivision (1) of this section shall be deemed a surety for the purposes of the payment of valid claims of the self-insurer's employees and the persons to whom the self-insurer has agreed to pay benefits under the Nebraska Workers' Compensation Act pursuant to subdivision (11) of section 48-115 and section 48-115.02 as generally provided in the act.

Source: Laws 1913, c. 198, § 46, p. 599; R.S.1913, § 3687; Laws 1917, c. 85, § 21, p. 215; Laws 1921, c. 122, § 1, p. 528; C.S.1922, § 3069; C.S.1929, § 48-146; Laws 1935, c. 57, § 31, p. 202; C.S.Supp.,1941, § 48-146; R.S.1943, § 48-145; Laws 1957, c. 205, § 1, p. 723; Laws 1963, c. 286, § 1, p. 860; Laws 1971, LB 572, § 8; Laws 1986, LB 811, § 67; Laws 1988, LB 1146, § 1; Laws 1997, LB 474, § 4; Laws 1999, LB 216, § 9; Laws 2000, LB 1221, § 8; Laws 2005, LB 13, § 8; Laws 2005, LB 238, § 10; Laws 2010, LB579, § 16; Laws 2015, LB480, § 4; Laws 2023, LB191, § 7.

Operative date May 27, 2023.

Cross References

Intergovernmental Risk Management Act, see section 44-4301.

PART IV

NEBRASKA WORKERS' COMPENSATION COURT

48-152 Nebraska Workers' Compensation Court; creation; jurisdiction; judges; selected or retained in office.

Recognizing that (1) industrial relations between employers and employees within the State of Nebraska are affected with a vital public interest, (2) an impartial and efficient administration of the Nebraska Workers' Compensation Act is essential to the prosperity and well-being of the state, and (3) suitable laws should be enacted for the establishing and for the preservation of such an administration of the Nebraska Workers' Compensation Act, there is hereby created, pursuant to the provisions of Article V, section 1, of the Nebraska Constitution, a court, consisting of judges, to be selected or retained in office in accordance with the provisions of Article V, section 21, of the Nebraska Constitution and to be known as the Nebraska Workers' Compensation Court, which court shall have authority to administer and enforce all of the provisions of the Nebraska Workers' Compensation Act, and any amendments thereof, except such as are committed to the courts of appellate jurisdiction or as otherwise provided by law.

Source: Laws 1935, c. 57, § 1, p. 188; C.S.Supp.,1941, § 48-162; R.S. 1943, § 48-152; Laws 1949, c. 161, § 3, p. 412; Laws 1965, c. 280, § 1, p. 806; Laws 1967, c. 292, § 1, p. 797; Laws 1975, LB 187, § 9; Laws 1983, LB 18, § 2; Laws 1986, LB 811, § 79; Laws 1988, LB 868, § 1; Laws 2005, LB 13, § 13; Laws 2023, LB799, § 7.

Operative date June 1, 2023.

48-153 Judges; number; term; continuance in office; prohibition on holding other office or pursuing other occupation.

(1) The Nebraska Workers' Compensation Court shall consist of six judges.

(2) The right of judges of the compensation court to continue in office shall be determined in the manner provided in sections 24-813 to 24-818, and the terms of office thereafter shall be for six years beginning on the first Thursday after the first Tuesday in January immediately following their retention at such election.

(3) In case of a vacancy occurring in the Nebraska Workers' Compensation Court, the same shall be filled in accordance with the provisions of Article V, section 21, of the Nebraska Constitution and the right of any judge so appointed to continue in office shall be determined in the manner provided in sections 24-813 to 24-818. All such judges shall hold office until their successors are appointed and qualified, or until death, voluntary resignation, or removal for cause.

(4) No judge of the compensation court shall, during his or her tenure in office as judge, hold any other office or position of profit, pursue any other

business or avocation inconsistent or which interferes with his or her duties as such judge, or serve on or under any committee of any political party.

Source: Laws 1935, c. 57, § 2, p. 188; C.S.Supp.,1941, § 48-163; R.S. 1943, § 48-153; Laws 1945, c. 113, § 1, p. 363; Laws 1963, c. 288, § 1, p. 865; Laws 1965, c. 280, § 2, p. 806; Laws 1967, c. 292, § 2, p. 798; Laws 1975, LB 187, § 10; Laws 1978, LB 649, § 4; Laws 1979, LB 237, § 5; Laws 1981, LB 111, § 4; Laws 1983, LB 18, § 3; Laws 1986, LB 811, § 81; Laws 1988, LB 868, § 2; Laws 2011, LB151, § 3; Laws 2023, LB799, § 8.
Operative date June 1, 2023.

48-163 Compensation court; rules and regulations; procedures for adoption; powers and duties.

(1) The Nebraska Workers' Compensation Court, by a majority vote of the judges thereof, may adopt and promulgate all reasonable rules and regulations necessary for carrying out the intent and purpose of the Nebraska Workers' Compensation Act, except that rules and regulations relating to the compensation court's adjudicatory function shall become effective only upon approval of the Supreme Court.

(2) No rule or regulation to carry out the act shall be adopted and promulgated except after public hearing conducted by a quorum of the compensation court on the question of adopting and promulgating such rule or regulation. Notice of such hearing shall be given at least fourteen days prior thereto by publication in a newspaper having general circulation in the state. Draft copies of all such rules and regulations shall be available to the public at the compensation court at the time of giving notice.

(3) The administrator of the compensation court shall establish and maintain a list of subscribers who wish to receive notice of public hearing on the question of adopting and promulgating any rule or regulation and shall provide notice to such subscribers. The administrator shall distribute a current copy of existing rules and regulations and any updates to those rules and regulations once adopted to the State Library and to each county law library or the largest public library in each county.

Source: Laws 1935, c. 57, § 6, p. 190; C.S.Supp.,1941, § 48-167; R.S. 1943, § 48-163; Laws 1975, LB 187, § 11; Laws 1986, LB 811, § 96; Laws 1992, LB 360, § 17; Laws 1993, LB 757, § 24; Laws 1999, LB 216, § 15; Laws 2005, LB 13, § 21; Laws 2023, LB191, § 8.
Operative date September 2, 2023.

48-164 Compensation court; rules and regulations.

The Nebraska Workers' Compensation Court shall regulate and provide the kind and character of notices and the services thereof and, in case of an injury by accident to an employee, the nature and extent of the proofs and evidence and the method of taking and furnishing the same for the establishment of the right to compensation. It shall determine the nature and form or forms of the application of those claiming to be entitled to benefits or compensation and shall regulate the method of making investigations, physical examinations, and inspections and prescribe the time within which adjudications and awards shall

be made. Such rules and regulations shall conform to the provisions of the Nebraska Workers' Compensation Act.

Source: Laws 1917, c. 85, § 29, p. 220; C.S.1922, § 3080; C.S.1929, § 48-157; Laws 1935, c. 57, § 36, p. 205; C.S.Supp.,1941, § 48-157; R.S.1943, § 48-164; Laws 1945, c. 113, § 5, p. 365; Laws 1986, LB 811, § 97; Laws 2023, LB191, § 9.
Operative date September 2, 2023.

Cross References

For service of documents upon adverse party or attorney, see section 25-534.

48-174 Summons; service; return.

Upon the filing of such petition a summons shall issue and be served upon the adverse party, as in civil causes, together with a copy of the petition. Return of service shall be made within fourteen days after the date of issue. An acknowledgment on the summons or the voluntary appearance of a defendant is equivalent to service.

Source: Laws 1935, c. 57, § 13, p. 192; C.S.Supp.,1941, § 48-174; R.S. 1943, § 48-174; Laws 1978, LB 649, § 6; Laws 2000, LB 1221, § 13; Laws 2023, LB191, § 10.
Operative date September 2, 2023.

ARTICLE 6

EMPLOYMENT SECURITY

Section

- 48-622.02. Nebraska Training and Support Cash Fund; created; use; investment; Administrative Costs Reserve Account; created; use.
- 48-649.03. Employer's combined tax rate once benefits payable from experience account; experience factor.
- 48-650. Combined tax rate; determination of employment; notice, method; review; redetermination; proceedings; appeal.
- 48-652. Employer's experience account; reimbursement account; combined tax; liability; termination; reinstatement.

48-622.02 Nebraska Training and Support Cash Fund; created; use; investment; Administrative Costs Reserve Account; created; use.

(1) The Nebraska Training and Support Cash 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. No expenditures shall be made from the Nebraska Training and Support Cash Fund without the written authorization of the Governor upon the recommendation of the commissioner. Any interest earned on money in the State Unemployment Insurance Trust Fund shall be credited to the Nebraska Training and Support Cash Fund.

(2) Money in the Nebraska Training and Support Cash Fund shall be used for (a) administrative costs of establishing, assessing, collecting, and maintaining state unemployment insurance tax liability and payments, (b) administrative costs of creating, operating, maintaining, and dissolving the State Unemployment Insurance Trust Fund and the Nebraska Training and Support Cash Fund, (c) support of public and private job training programs designed to train, retrain, or upgrade work skills of existing Nebraska workers of for-profit and

not-for-profit businesses, (d) recruitment of workers to Nebraska, (e) training new employees of expanding Nebraska businesses, (f) retention of existing employees of Nebraska businesses, (g) the costs of creating a common web portal for the attraction of businesses and workers to Nebraska, (h) developing and conducting labor availability and skills gap studies pursuant to the Sector Partnership Program Act, for which money may be transferred to the Sector Partnership Program Fund as directed by the Legislature, and (i) payment of unemployment insurance benefits if solvency of the state's account in the Unemployment Trust Fund and of the State Unemployment Insurance Trust Fund so require.

(3) The Administrative Costs Reserve Account is created within the Nebraska Training and Support Cash Fund. Money shall be allocated from the Nebraska Training and Support Cash Fund to the Administrative Costs Reserve Account in amounts sufficient to pay the anticipated administrative costs identified in subsection (2) of this section.

(4) The State Treasurer shall transfer two hundred fifty thousand dollars from the Nebraska Training and Support Cash Fund to the Sector Partnership Program Fund no later than July 15, 2016.

Source: Laws 1994, LB 1337, § 5; Laws 1995, LB 7, § 49; Laws 2009, LB631, § 3; Laws 2012, LB911, § 1; Laws 2014, LB997, § 2; Laws 2016, LB1110, § 13; Laws 2017, LB172, § 22; Laws 2023, LB191, § 11.

Operative date September 2, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

Sector Partnership Program Act, see section 48-3401.

48-649.03 Employer's combined tax rate once benefits payable from experience account; experience factor.

(1) Once benefits have been payable from and chargeable to an employer's experience account throughout the preceding four calendar quarters and wages for employment have been paid by the employer in each of the two preceding four-calendar-quarter periods, the employer's combined tax rate shall be calculated according to this section. The combined tax rate shall be based upon the employer's experience rating record and determined from the employer's reserve ratio.

(2) The employer's reserve ratio is the percent obtained by dividing (a) the amount by which the employer's contributions credited from the time the employer first or most recently became an employer, whichever date is later, and up to and including September 30 of the year the rate computation is made, plus any part of the employer's contributions due for that year paid on or before October 31 of such year, exceed the employer's benefits charged during the same period, by (b) the employer's average annual taxable payroll for the sixteen-consecutive-calendar-quarter period ending September 30 of the year in which the rate computation is made. For an employer with less than sixteen consecutive calendar quarters of contribution experience, the employer's average taxable payroll shall be determined based upon the four-calendar-quarter periods for which contributions were payable.

(3) Each eligible experience rated employer shall be assigned to one of twenty rate categories with a corresponding experience factor as follows:

Category	Experience Factor
1	0.00
2	0.25
3	0.40
4	0.45
5	0.50
6	0.60
7	0.65
8	0.70
9	0.80
10	0.90
11	0.95
12	1.00
13	1.05
14	1.10
15	1.20
16	1.35
17	1.55
18	1.80
19	2.15
20	2.60

Eligible experience rated employers shall be assigned to rate categories from highest to lowest according to their experience reserve ratio, with category one assigned to accounts with the highest reserve ratios and category twenty assigned to accounts with the lowest reserve ratios. Each category shall be limited to no more than five percent of the state’s total taxable payroll, except that:

(a) Any employer with a portion of its taxable wages falling into two consecutive categories shall be assigned to the lower category;

(b) No employer with a reserve ratio calculated to five decimal places equal to the similarly calculated reserve ratio of another employer shall be assigned to a higher rate than the employer to which it has the equal reserve ratio; and

(c) No employer with a positive experience account balance shall be assigned to category twenty.

(4) The state’s reserve ratio shall be calculated annually by dividing the amount available to pay benefits in the Unemployment Trust Fund and the State Unemployment Insurance Trust Fund as of September 30, plus any amount of combined tax owed by employers eligible for and electing annual payment status for the four most recent quarters ending on September 30 in accordance with rules and regulations adopted by the commissioner, by the state’s total wages from the four calendar quarters ending on September 30. For purposes of this section, total wages means all remuneration paid by an employer in employment. The state’s reserve ratio shall be applied to the table in this subsection to determine the yield factor for the upcoming rate year.

State’s Reserve Ratio	Yield Factor
1.45 percent and above	= 0.70
1.30 percent up to but not including 1.45	= 0.75
1.15 percent up to but not including 1.30	= 0.80

State's Reserve Ratio	=	Yield Factor
1.00 percent up to but not including 1.15	=	0.90
0.85 percent up to but not including 1.00	=	1.00
0.70 percent up to but not including 0.85	=	1.10
0.60 percent up to but not including 0.70	=	1.20
0.50 percent up to but not including 0.60	=	1.25
0.45 percent up to but not including 0.50	=	1.30
0.40 percent up to but not including 0.45	=	1.35
0.35 percent up to but not including 0.40	=	1.40
0.30 percent up to but not including 0.35	=	1.45
Below 0.30 percent	=	1.50

The commissioner may adjust the yield factor determined pursuant to the preceding table to a lower scheduled yield factor if the state's reserve ratio is 1.00 percent or greater. Once the yield factor for the upcoming rate year has been determined, it is multiplied by the amount of unemployment benefits paid from combined tax during the four calendar quarters ending September 30 of the preceding year. The resulting figure is the planned yield for the rate year. The planned yield is divided by the total taxable wages for the four calendar quarters ending September 30 of the previous year and carried to four decimal places to create the average combined tax rate for the rate year.

(5) The average combined tax rate is assigned to rate category twelve as established in subsection (3) of this section. Rates for each of the remaining nineteen categories are determined by multiplying the average combined tax rate by the experience factor associated with each category and carried to four decimal places. Employers who are delinquent in filing their combined tax reports as of October 31 of any year shall be assigned to category twenty for the following calendar year unless the delinquency is corrected prior to December 31 of the year of rate calculation.

(6) In addition to required contributions, an employer may make voluntary contributions to the fund to be credited to his or her account. Voluntary contributions by employers may be made up to the amount necessary to qualify for one rate category reduction. Voluntary contributions received after February 28 shall not be used in rate calculations for the same calendar year.

(7) As used in sections 48-648 to 48-654, the term payroll means the total amount of wages during a calendar year, except as otherwise provided in section 48-654, by which the combined tax was measured.

Source: Laws 2017, LB172, § 66; Laws 2019, LB359, § 5; Laws 2023, LB191, § 12.

Operative date September 2, 2023.

48-650 Combined tax rate; determination of employment; notice, method; review; redetermination; proceedings; appeal.

(1) The commissioner shall determine the rate of combined tax applicable to each employer pursuant to sections 48-649 to 48-649.04 and may determine, at any time during the year, whether services performed by an individual were employment or for an employer.

(2) Notice of a determination of liability or combined tax rate shall be promptly given to the employer by electronic notice or by mailing such notice to the employer's last-known address or the address of a representative designated in writing by the employer. The address of record of an employer on

September 2, 2023, shall continue to be the address of record of such employer unless changed by the employer. An employer that becomes subject to the Employment Security Law on or after September 2, 2023, shall designate its preferred method of contact and designated representative, if any, at the time of its initial registration. An employer may change its election at any time.

(3) Any determination under subsection (1) of this section shall become conclusive and binding upon the employer unless, within thirty days after receiving notice, the employer files an appeal with the department in accordance with rules and regulations adopted and promulgated by the commissioner. No employer shall have standing, in any proceeding involving his or her combined tax rate or combined tax liability, to contest the chargeability to his or her account of any benefits paid in accordance with a determination, redetermination, or decision pursuant to sections 48-629 to 48-644 except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him or her and only in the event that he or she was not a party to such determination, redetermination, or decision or to any other proceedings under the Employment Security Law in which the character of such services was determined. A full and complete record shall be kept of all proceedings in connection with such hearing. All testimony at any such hearing shall be recorded but need not be transcribed unless there is a further appeal. The employer shall be promptly notified of a hearing officer's decision which shall become final unless the employer or the commissioner appeals within thirty days after the date of service of the decision of the hearing officer. The appeal shall otherwise be governed by the Administrative Procedure Act.

Source: Laws 1941, c. 94, § 5, p. 391; C.S.Supp., 1941, § 48-707; R.S. 1943, § 48-650; Laws 1985, LB 339, § 35; Laws 1985, LB 342, § 1; Laws 1988, LB 352, § 88; Laws 1994, LB 1337, § 9; Laws 2001, LB 192, § 11; Laws 2017, LB172, § 68; Laws 2023, LB191, § 13.

Operative date September 2, 2023.

Cross References

Administrative Procedure Act, see section 84-920.

48-652 Employer's experience account; reimbursement account; combined tax; liability; termination; reinstatement.

(1)(a) A separate experience account shall be established for each employer who is liable for payment of combined tax. Whenever and wherever in the Employment Security Law the terms reserve account or experience account are used, unless the context clearly indicates otherwise, such terms shall be deemed interchangeable and synonymous and reference to either of such accounts shall refer to and also include the other.

(b) A separate reimbursement account shall be established for each employer who is liable for payments in lieu of contributions. All benefits paid with respect to service in employment for such employer shall be charged to his or her reimbursement account, and such employer shall be billed for and shall be liable for the payment of the amount charged when billed by the commissioner. Payments in lieu of contributions received by the commissioner on behalf of each such employer shall be credited to such employer's reimbursement account, and two or more employers who are liable for payments in lieu of

contributions may jointly apply to the commissioner for establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. The commissioner shall adopt and promulgate such rules and regulations as he or she deems necessary with respect to applications for establishment, maintenance, and termination of group accounts authorized by this subdivision.

(2) All contributions paid by an employer shall be credited to the experience account of such employer. State unemployment insurance tax payments shall not be credited to the experience account of each employer. Partial payments of combined tax shall be credited so that at least eighty percent of the combined tax payment excluding interest and penalty is credited first to contributions due. Contributions with respect to prior years which are received on or before January 31 of any year shall be considered as having been paid at the beginning of the calendar year. All voluntary contributions which are received on or before February 28 of any year shall be considered as having been paid at the beginning of the calendar year.

(3)(a) Each experience account shall be charged only for benefits based upon wages paid by such employer. No benefits shall be charged to the experience account of any employer if:

(i) Such benefits were paid on the basis of a period of employment from which the claimant (A) left work voluntarily without good cause, (B) left work voluntarily due to a nonwork-connected illness or injury, (C) left work voluntarily with good cause to escape abuse as defined in section 42-903 between household members as provided in subdivision (1) of section 48-628.13, (D) left work from which he or she was discharged for misconduct connected with his or her work, (E) left work voluntarily and is entitled to unemployment benefits without disqualification in accordance with subdivision (3), (5), or (11) of section 48-628.13, or (F) was involuntarily separated from employment and such benefits were paid pursuant to section 48-628.17; and

(ii) The employer has filed timely notice of the facts on which such exemption is claimed in accordance with rules and regulations adopted and promulgated by the commissioner.

(b) No benefits shall be charged to the experience account of any employer if such benefits were paid during a week when the individual was participating in training approved under section 236(a)(1) of the federal Trade Act of 1974, 19 U.S.C. 2296(a)(1).

(c) Each reimbursement account shall be charged only for benefits paid that were based upon wages paid by such employer in the base period that were wages for insured work solely by reason of section 48-627.01.

(d) Benefits paid to an eligible individual shall be charged against the account of his or her most recent employers within his or her base period against whose accounts the maximum charges hereunder have not previously been made in the inverse chronological order in which the employment of such individual occurred. The maximum amount so charged against the account of any employer, other than an employer for which services in employment as provided in subdivision (4)(a) of section 48-604 are performed, shall not exceed the total benefit amount to which such individual was entitled as set out in section 48-626 with respect to base period wages of such individual paid by such employer plus one-half the amount of extended benefits paid to such eligible individual with respect to base period wages of such individual paid by such

employer. The commissioner shall adopt and promulgate rules and regulations determining the manner in which benefits shall be charged against the account of several employers for whom an individual performed employment during the same quarter or during the same base period.

(4)(a) An employer's experience account shall be terminated one calendar year after such employer has ceased to be subject to the Employment Security Law, except that if the commissioner finds that an employer's business is closed solely because one or more of the owners, officers, partners, or limited liability company members or the majority stockholder entered the armed forces of the United States, or of any of its allies, such employer's account shall not be terminated and, if the business is resumed within two years after the discharge or release from active duty in the armed forces of such person or persons, the employer's experience account shall be deemed to have been continuous throughout such period.

(b) An experience account terminated pursuant to this subsection shall be reinstated if:

(i) The employer becomes subject again to the Employment Security Law within one calendar year after termination of such experience account;

(ii) The employer makes a written application for reinstatement of such experience account to the commissioner within two calendar years after termination of such experience account; and

(iii) The commissioner finds that the employer is operating substantially the same business as prior to the termination of such experience account.

(5) All money in the Unemployment Compensation Fund shall be kept mingled and undivided. In no case shall the payment of benefits to an individual be denied or withheld because the experience account of any employer does not have a total of contributions paid in excess of benefits charged to such experience account.

(6)(a) For benefit years beginning before September 3, 2017, if an individual's base period wage credits represent part-time employment for a contributory employer and the contributory employer continues to employ the individual to the same extent as during the base period, then the contributory employer's experience account shall not be charged if the contributory employer has filed timely notice of the facts on which such exemption is claimed in accordance with rules and regulations adopted and promulgated by the commissioner.

(b) For benefit years beginning on or after September 3, 2017, if an individual's base period wage credits represent part-time employment for an employer and the employer continues to employ the individual to the same extent as during the base period, then the employer's experience account, in the case of a contributory employer, or the employer's reimbursement account, in the case of a reimbursable employer, shall not be charged if the employer has filed timely notice of the facts on which such exemption is claimed in accordance with rules and regulations prescribed by the commissioner.

(7) If a contributory employer responds to the department's request for information within the time period set forth in subsection (1) of section 48-632 and provides accurate information as known to the employer at the time of the response, the employer's experience account shall not be charged if the individ-

ual's separation from employment is voluntary and without good cause as determined under section 48-628.12.

Source: Laws 1937, c. 108, § 7, p. 383; Laws 1939, c. 56, § 5, p. 240; Laws 1941, c. 94, § 5, p. 392; C.S.Supp.,1941, § 48-707; R.S. 1943, § 48-652; Laws 1947, c. 175, § 11, p. 579; Laws 1949, c. 163, § 13, p. 428; Laws 1953, c. 167, § 9, p. 534; Laws 1957, c. 208, § 5, p. 732; Laws 1971, LB 651, § 9; Laws 1977, LB 509, § 8; Laws 1980, LB 800, § 5; Laws 1984, LB 995, § 1; Laws 1985, LB 339, § 37; Laws 1986, LB 901, § 1; Laws 1987, LB 275, § 1; Laws 1988, LB 1033, § 3; Laws 1993, LB 121, § 292; Laws 1994, LB 884, § 65; Laws 1994, LB 1337, § 11; Laws 1995, LB 1, § 12; Laws 1995, LB 240, § 4; Laws 2000, LB 953, § 9; Laws 2001, LB 418, § 1; Laws 2005, LB 739, § 12; Laws 2007, LB265, § 10; Laws 2008, LB500, § 1; Laws 2009, LB631, § 8; Laws 2010, LB1020, § 6; Laws 2012, LB1058, § 7; Laws 2017, LB172, § 70; Laws 2017, LB519, § 1; Laws 2019, LB359, § 6; Laws 2021, LB260, § 2; Laws 2023, LB191, § 14.
Operative date September 2, 2023.

ARTICLE 12

WAGES

(a) MINIMUM WAGES

Section
48-1203. Wages; minimum rate; adjustments.

(a) MINIMUM WAGES

48-1203 Wages; minimum rate; adjustments.

(1) Except as otherwise provided in this section and section 48-1203.01, every employer shall pay to each of his or her employees a minimum wage of:

(a) Nine dollars per hour through December 31, 2022;

(b) Ten dollars and fifty cents per hour on and after January 1, 2023, through December 31, 2023;

(c) Twelve dollars per hour on and after January 1, 2024, through December 31, 2024;

(d) Thirteen dollars and fifty cents per hour on and after January 1, 2025, through December 31, 2025; and

(e) Fifteen dollars per hour on and after January 1, 2026, through December 31, 2026.

(2) The minimum wage established in subdivision (1)(e) of this section shall be increased on January 1, 2027, and on January 1 of successive years, by the increase in the cost of living. The increase in the cost of living shall be measured by the percentage increase, if any, as of August of the previous year over the level as of August of the year preceding that year in the consumer price index for all urban consumers (CPI-U) for the Midwest Region, or its successor index, as published by the U.S. Department of Labor, or its successor agency, with the amount of the minimum wage increase rounded up to the nearest multiple of five cents. No later than October 15 of each year, commencing

October 15, 2026, the Nebraska Department of Labor shall calculate and publish the minimum wage rate that will take effect the following January 1.

(3) For persons compensated by way of gratuities such as waitresses, waiters, hotel bellhops, porters, and shoeshine persons, the employer shall pay wages at the minimum rate of two dollars and thirteen cents per hour, plus all gratuities given to them for services rendered. The sum of wages and gratuities received by each person compensated by way of gratuities shall equal or exceed the applicable minimum wage rate provided in subsection (1) or (2) of this section. In determining whether or not the individual is compensated by way of gratuities, the burden of proof shall be upon the employer.

(4) Any employer employing student-learners as part of a bona fide vocational training program shall pay such student-learners' wages at a rate of at least seventy-five percent of the minimum wage rate which would otherwise be applicable.

Source: Laws 1967, c. 285, § 3, p. 775; Laws 1969, c. 408, § 2, p. 1413; Laws 1973, LB 343, § 2; Laws 1987, LB 474, § 1; Laws 1989, LB 412, § 1; Laws 1991, LB 297, § 2; Laws 1997, LB 569, § 1; Laws 2007, LB265, § 22; Initiative Law 2014, No. 425, § 1; Initiative Law 2022, No. 433, § 1.

ARTICLE 21

CONTRACTOR REGISTRATION

Section

48-2103. Terms, defined.

48-2107. Fees; exemption.

48-2103 Terms, defined.

For purposes of the Contractor Registration Act:

(1) Commissioner means the Commissioner of Labor;

(2) Construction means work on real property and annexations, including new work, additions, alterations, reconstruction, installations, and repairs performed at one or more different sites which may be dispersed geographically;

(3) Contractor means an individual, firm, partnership, limited liability company, corporation, or other association of persons engaged in the business of the construction, alteration, repairing, dismantling, or demolition of buildings, roads, bridges, viaducts, sewers, water and gas mains, streets, disposal plants, water filters, tanks and towers, airports, dams, levees and canals, water wells, pipelines, transmission and power lines, and every other type of structure, project, development, or improvement within the definition of real property and personal property, including such construction, repairing, or alteration of such property to be held either for sale or rental. Contractor also includes any subcontractor engaged in the business of such activities and any person who is providing or arranging for labor for such activities, either as an employee or as an independent contractor, for any contractor or person;

(4) Department means the Department of Labor; and

(5) Working days means Mondays through Fridays but does not include Saturdays, Sundays, or federal or state holidays. In computing fifteen working

days, the day of receipt of any notice is not included and the last day of the fifteen working days is included.

Source: Laws 1994, LB 248, § 3; Laws 2008, LB204, § 2; Laws 2009, LB162, § 2; Laws 2023, LB191, § 15.

Operative date September 2, 2023.

48-2107 Fees; exemption.

(1) Each application or renewal under section 48-2105 shall be signed by the applicant and accompanied by a fee not to exceed forty dollars. The commissioner may adopt and promulgate rules and regulations to establish the criteria for acceptability of filing documents and making payments electronically. The criteria may include requirements for electronic signatures. The commissioner may refuse to accept any electronic filings or payments that do not meet the criteria established. The fee shall not be required when an amendment to an application is submitted. The commissioner shall remit the fees collected under this subsection to the State Treasurer for credit to the Contractor and Professional Employer Organization Registration Cash Fund.

(2) A contractor shall not be required to pay the fee under subsection (1) of this section if (a) the contractor is self-employed and does not pay more than three thousand dollars annually to employ other persons in the business and the application contains a statement made under oath or equivalent affirmation setting forth such information or (b) the contractor only engages in the construction of water wells or installation of septic systems. At any time that a contractor no longer qualifies for exemption from the fee, the fee shall be paid to the department. Any false statement made under subdivision (2)(a) of this section shall be a violation of section 28-915.01.

Source: Laws 1994, LB 248, § 7; Laws 2008, LB204, § 4; Laws 2009, LB162, § 5; Laws 2016, LB270, § 3; Laws 2020, LB1016, § 7; Laws 2023, LB191, § 16.

Operative date September 2, 2023.

CHAPTER 49

LAW

Article.

5. Publication and Distribution of Session Laws and Journals. 49-506.
6. Printing and Distribution of Statutes. 49-617.
7. Statute Revision. 49-702.

ARTICLE 5

PUBLICATION AND DISTRIBUTION OF SESSION LAWS AND JOURNALS

Section

49-506. Distribution by Secretary of State.

49-506 Distribution by Secretary of State.

After the Secretary of State has made the distribution provided by section 49-503, he or she shall deliver additional copies of the session laws and the journal of the Legislature pursuant to this section in print or electronic format as he or she determines, upon recommendation by the Clerk of the Legislature and approval of the Executive Board of the Legislative Council.

One copy of the session laws shall be delivered to the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Reporter of Decisions, the State Court Administrator, the State Fire Marshal, the Department of Administrative Services, the Department of Agriculture, the Department of Banking and Finance, the State Department of Education, the Department of Environment and Energy, the Department of Insurance, the Department of Labor, the Department of Motor Vehicles, the Department of Revenue, the Department of Transportation, the Department of Veterans' Affairs, the Department of Natural Resources, the Military Department, the Nebraska State Patrol, the Nebraska Commission on Law Enforcement and Criminal Justice, each of the Nebraska state colleges, the Game and Parks Commission, the Nebraska Library Commission, the Nebraska Liquor Control Commission, the Nebraska Accountability and Disclosure Commission, the Public Service Commission, the State Real Estate Commission, the Nebraska State Historical Society, the Public Employees Retirement Board, the Risk Manager, the Legislative Fiscal Analyst, the Public Counsel, the materiel division of the Department of Administrative Services, the State Records Administrator, the budget division of the Department of Administrative Services, the Tax Equalization and Review Commission, the inmate library at all state penal and correctional institutions, the Commission on Public Advocacy, and the Library of Congress; two copies to the Governor, the Secretary of State, the Commission of Industrial Relations, and the Coordinating Commission for Postsecondary Education, one of which shall be for use by the community colleges; three copies to the Department of Health and Human Services; four copies to the Nebraska Publications Clearinghouse; five copies to the Attorney General; nine copies to the Revisor of Statutes; sixteen copies to the Supreme Court and the Legislative Council; and thirty-five copies to the University of Nebraska College of Law.

One copy of the journal of the Legislature shall be delivered to the Governor, the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Reporter of Decisions, the State Court Administrator, the Nebraska State Historical Society, the Legislative Fiscal Analyst, the Tax Equalization and Review Commission, the Commission on Public Advocacy, and the Library of Congress; two copies to the Secretary of State and the Commission of Industrial Relations; four copies to the Nebraska Publications Clearinghouse; five copies to the Attorney General and the Revisor of Statutes; eight copies to the Clerk of the Legislature; thirteen copies to the Supreme Court and the Legislative Council; and thirty-five copies to the University of Nebraska College of Law. The remaining copies shall be delivered to the State Librarian who shall use the same, so far as required for exchange purposes, in building up the State Library and in the manner specified in sections 49-507 to 49-509.

Source: Laws 1907, c. 78, § 6, p. 290; R.S.1913, § 3738; C.S.1922, § 3131; C.S.1929, § 49-506; R.S.1943, § 49-506; Laws 1947, c. 185, § 4, p. 611; Laws 1961, c. 243, § 2, p. 725; Laws 1969, c. 413, § 1, p. 1419; Laws 1972, LB 1284, § 17; Laws 1987, LB 572, § 2; Laws 1991, LB 663, § 34; Laws 1991, LB 732, § 117; Laws 1993, LB 3, § 34; Laws 1995, LB 271, § 6; Laws 1996, LB 906, § 1; Laws 1996, LB 1044, § 277; Laws 1999, LB 36, § 3; Laws 2000, LB 534, § 3; Laws 2000, LB 900, § 240; Laws 2000, LB 1085, § 2; Laws 2007, LB296, § 222; Laws 2007, LB334, § 6; Laws 2017, LB339, § 176; Laws 2019, LB302, § 54; Laws 2023, LB191, § 17; Laws 2023, LB799, § 9.
Operative date September 2, 2023.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB191, section 17, with LB799, section 9, to reflect all amendments.

ARTICLE 6

PRINTING AND DISTRIBUTION OF STATUTES

Section

49-617. Printing of statutes; distribution of copies.

49-617 Printing of statutes; distribution of copies.

The Revisor of Statutes shall cause the statutes to be printed. The printer shall deliver all completed copies to the Supreme Court. These copies shall be held and disposed of by the court as follows: Sixty copies to the State Library to exchange for statutes of other states; five copies to the State Library to keep for daily use; not to exceed twenty-five copies to the Legislative Council for bill drafting and related services to the Legislature and executive state officers; as many copies to the Attorney General as he or she has attorneys on his or her staff; as many copies to the Commission on Public Advocacy as it has attorneys on its staff; up to sixteen copies to the State Court Administrator; thirteen copies to the Tax Commissioner; eight copies to the Nebraska Publications Clearinghouse; six copies to the Public Service Commission; four copies to the Secretary of State; three copies to the Tax Equalization and Review Commission; four copies to the Clerk of the Legislature for use in his or her office and three copies to be maintained in the legislative chamber, one copy on each side of the chamber and one copy at the desk of the Clerk of the Legislature, under control of the sergeant at arms; three copies to the Department of Health and Human Services; two copies each to the Governor of the state, the Chief Justice

and each judge of the Supreme Court, each judge of the Court of Appeals, the Clerk of the Supreme Court, the Reporter of Decisions, the Commissioner of Labor, the Auditor of Public Accounts, and the Revisor of Statutes; one copy each to the Secretary of State of the United States, each Indian tribal court located in the State of Nebraska, the library of the Supreme Court of the United States, the Adjutant General, the Air National Guard, the Commissioner of Education, the State Treasurer, the Board of Educational Lands and Funds, the Director of Agriculture, the Director of Administrative Services, the Director of Economic Development, the director of the Nebraska Public Employees Retirement Systems, the Director-State Engineer, the Director of Banking and Finance, the Director of Insurance, the Director of Motor Vehicles, the Director of Veterans' Affairs, the Director of Natural Resources, the Director of Correctional Services, the Nebraska Emergency Operating Center, each judge of the Nebraska Workers' Compensation Court, each commissioner of the Commission of Industrial Relations, the Nebraska Liquor Control Commission, the State Real Estate Commission, the secretary of the Game and Parks Commission, the Board of Pardons, each state institution under the Department of Health and Human Services, each state institution under the State Department of Education, the State Surveyor, the Nebraska State Patrol, the materiel division of the Department of Administrative Services, the personnel division of the Department of Administrative Services, the Nebraska Motor Vehicle Industry Licensing Board, the Board of Trustees of the Nebraska State Colleges, each of the Nebraska state colleges, each district judge of the State of Nebraska, each judge of the county court, each judge of a separate juvenile court, the Lieutenant Governor, each United States Senator from Nebraska, each United States Representative from Nebraska, each clerk of the district court for the use of the district court, the clerk of the Nebraska Workers' Compensation Court, each clerk of the county court, each county attorney, each county public defender, each county law library, and the inmate library at all state penal and correctional institutions, and each member of the Legislature shall be entitled to two complete sets, and two complete sets of such volumes as are necessary to update previously issued volumes, but each member of the Legislature and each judge of any court referred to in this section shall be entitled, on request, to an additional complete set. Copies of the statutes distributed without charge, as listed in this section, shall be the property of the state or governmental subdivision of the state and not the personal property of the particular person receiving a copy. Distribution of statutes to the library of the College of Law of the University of Nebraska shall be as provided in sections 85-176 and 85-177.

Source: Laws 1943, c. 115, § 17, p. 407; R.S.1943, § 49-617; Laws 1944, Spec. Sess., c. 3, § 5, p. 100; Laws 1947, c. 185, § 5, p. 612; Laws 1951, c. 345, § 1, p. 1132; Laws 1957, c. 210, § 3, p. 743; Laws 1961, c. 242, § 2, p. 722; Laws 1961, c. 243, § 3, p. 725; Laws 1961, c. 415, § 5, p. 1247; Laws 1961, c. 416, § 8, p. 1266; Laws 1963, c. 303, § 3, p. 898; Laws 1965, c. 305, § 1, p. 858; Laws 1967, c. 325, § 1, p. 863; Laws 1967, c. 326, § 1, p. 865; Laws 1971, LB 36, § 4; Laws 1972, LB 1032, § 254; Laws 1972, LB 1174, § 1; Laws 1972, LB 1284, § 18; Laws 1973, LB 1, § 5; Laws 1973, LB 563, § 4; Laws 1973, LB 572, § 1; Laws 1974, LB 595, § 1; Laws 1975, LB 59, § 4; Laws 1978, LB 168, § 1; Laws 1984, LB 13, § 82; Laws 1985, LB 498, § 2; Laws 1987, LB 572, § 6; Laws 1991, LB 732, § 118; Laws 1992, Third Spec. Sess., LB

14, § 3; Laws 1995, LB 271, § 7; Laws 1996, LB 906, § 2; Laws 1996, LB 1044, § 278; Laws 1999, LB 36, § 4; Laws 2000, LB 692, § 9; Laws 2000, LB 900, § 241; Laws 2000, LB 1085, § 3; Laws 2007, LB296, § 223; Laws 2007, LB334, § 7; Laws 2007, LB472, § 8; Laws 2010, LB770, § 3; Laws 2011, LB384, § 1; Laws 2017, LB339, § 177; Laws 2023, LB799, § 10.
Operative date September 2, 2023.

ARTICLE 7
STATUTE REVISION

Section
49-702. Revisor of Statutes; duties.

49-702 Revisor of Statutes; duties.

It shall be the duty of the Revisor of Statutes:

(1) To consult with and assist the Legislative Council prior to each regular session of the Legislature in the preparation of the report of the Legislative Council as to defects in the Constitution of Nebraska and laws of Nebraska and to draft in the form of bills proposed legislation to carry out the recommendations contained in the report;

(2) To prepare for submission to the Legislature, from time to time, when recommended by the Legislative Council in its report as to defects in the Constitution of Nebraska and laws of Nebraska, a rewriting and revision, chapter by chapter, in simplified style and phraseology, of the various chapters of the statutes of Nebraska;

(3) To publish annotations of the decisions of the Supreme Court of Nebraska, the Court of Appeals, and the federal courts as received from the Reporter of Decisions; and

(4) To prepare, arrange, and correlate for publication, at the end of each legislative session, the laws enacted during the session and to arrange and correlate for publication replacements of the permanent volumes of the statutes.

Source: Laws 1945, c. 119, § 2, p. 392; Laws 1967, c. 328, § 3, p. 869; Laws 1969, c. 412, § 2, p. 1418; Laws 1986, LB 994, § 1; Laws 1994, LB 1244, § 2; Laws 1995, LB 271, § 8; Laws 2023, LB799, § 11.

Operative date September 2, 2023.

CHAPTER 50 LEGISLATURE

Article.

1. General Provisions. 50-114, 50-117.
4. Legislative Council. 50-402 to 50-434.
7. Mental Health Oversight. 50-702.
12. Legislative Performance Audit Act. 50-1209.

ARTICLE 1

GENERAL PROVISIONS

Section

- 50-114. Clerk; duties; official records of the Legislature; audio and video recordings; restrictions on use.
- 50-117. Digital Internet archive of closed-captioned video coverage of the Legislature; policies and procedures; requirements.

50-114 Clerk; duties; official records of the Legislature; audio and video recordings; restrictions on use.

(1) It shall be the duty of the Clerk of the Legislature to attend the sessions of the Legislature, to call the roll, to read the journals, bills, memorials, resolutions, petitions, and all other papers or documents necessary to be read in the Legislature, to keep a correct journal of the proceedings in the Legislature, and to do and perform such other duties as may be imposed upon the clerk by the Legislature or by the Executive Board of the Legislative Council.

(2) The records of floor debate and committee hearings as prepared and permanently maintained by the Clerk of the Legislature are the official records of the Legislature.

(3) Any government website offering access to audio and video recordings of the proceedings of the Legislature or of a committee or division of the Legislature shall require notification to any website user, using appropriate technology, that such recordings shall not be used, reproduced, or redistributed without express permission by the Legislative Council and in accordance with the policies developed by the Executive Board of the Legislative Council pursuant to section 50-117.

Source: Laws 1867, § 4, p. 85; R.S.1913, § 3755; C.S.1922, § 3148; C.S.1929, § 50-114; Laws 1941, c. 101, § 1, p. 418; C.S.Supp.,1941, § 50-114; R.S.1943, § 50-114; Laws 1967, c. 328, § 8, p. 871; Laws 2023, LB254, § 2.
Effective date May 27, 2023.

50-117 Digital Internet archive of closed-captioned video coverage of the Legislature; policies and procedures; requirements.

(1) The Legislative Council, through the Executive Board of the Legislative Council, shall develop and maintain a publicly accessible, digital Internet archive of closed-captioned video coverage of the Legislature, including floor debate and public committee hearings indexed by legislative bill or resolution

number or by date, beginning with the coverage of the One Hundred Ninth Legislature, First Session, in January 2025 or as soon as live, closed-captioned video coverage of the Legislature is available for use, whichever is sooner, as provided in section 79-1316. Closed-captioned video coverage shall include closed captioning in both English and Spanish.

(2) Applicable historical video coverage of the Legislature shall be collected and added to the digital archive as available. Applicable historical video coverage shall only consist of video coverage of the Legislature captured by the Nebraska Educational Telecommunications Commission and closed-captioned prior to January 1, 2025.

(3) Such archive is intended solely for educational and informational purposes and to enhance access for the public, in keeping with the Legislature's commitment to transparency in state government.

(4) Audio and video recordings of the proceedings of the Legislature or of a committee or division of the Legislature are not official records of such proceedings and shall not be admissible in any proceeding as evidence of legislative history, action, or intent.

(5) The Executive Board of the Legislative Council shall develop policies and procedures surrounding the creation and ongoing usage of the publicly accessible, indexed, digital Internet archive of closed-captioned video coverage of the Legislature developed pursuant to this section. Such policies shall include, but not be limited to:

(a) The usage of archived video recordings for purposes other than legislative purposes;

(b) A determination regarding which committee hearings and committee briefings shall be recorded and added to the digital archive;

(c) Parameters surrounding long-term storage of archived video recordings; and

(d) Management of costs in relation to supporting public accessibility of archived video recordings.

Source: Laws 2023, LB254, § 1.

Effective date May 27, 2023.

ARTICLE 4

LEGISLATIVE COUNCIL

Section

50-402. Legislative Council; office; duties.

50-425. Repealed. Laws 2023, LB705, § 134.

50-426. Repealed. Laws 2023, LB705, § 134.

50-427. Repealed. Laws 2023, LB705, § 134.

50-428. Repealed. Laws 2023, LB705, § 134.

50-433. Nebraska Sentencing Reform Task Force; created; duties; members; reports; termination.

50-434. Committee on Justice Reinvestment Oversight; created; members; duties; report; termination.

50-402 Legislative Council; office; duties.

The Legislative Council shall occupy and maintain offices in the State Capitol.

It shall be the duty of the council:

- (1) To collect information concerning the government and general welfare of the state;
- (2) To examine the effects of previously enacted statutes and recommend amendments thereto;
- (3) To deal with important issues of public policy and questions of statewide interest;
- (4) To prepare a legislative program in the form of bills or otherwise as in its opinion the welfare of the state may require, to be presented at the next session of the Legislature;
- (5) To study federal aid to the state and its political subdivisions and advise the Legislature of money, land, or buildings available from the federal government, matching funds necessary, grants and aids, and what new legislation will be needed;
- (6) To establish and maintain a complete and efficient bill drafting service for the purpose of aiding and assisting members of the Legislature and the executive departments of the state in the preparation of bills, resolutions, and measures and in drafting the same in proper form, and for this purpose there shall be assigned to the council for such work, rooms in the State Capitol conveniently situated in reference to the legislative chamber;
- (7) To provide, through the Revisor of Statutes, for the publication of supplements and replacement volumes of the statutes of Nebraska;
- (8) To provide, through the Executive Board of the Legislative Council, for the development and maintenance of a publicly accessible, indexed, digital Internet archive of closed-captioned video coverage of the Legislature as provided in section 50-117; and
- (9) To set up subcommittees within the executive board to carry out functions such as investigation of any area which it may decide is in the public interest with power to employ such additional personnel as may be needed to carry out the intent and activities of the executive board or the Legislature.

Source: Laws 1937, c. 118, § 2, p. 422; Laws 1939, c. 60, § 2, p. 261; C.S.Supp.,1941, § 50-502; R.S.1943, § 50-402; Laws 1965, c. 311, § 1, p. 873; Laws 1965, c. 312, § 1, p. 874; Laws 1967, c. 328, § 11, p. 872; Laws 1972, LB 1129, § 2; Laws 1992, LB 898, § 2; Laws 2023, LB254, § 3.
Effective date May 27, 2023.

50-425 Repealed. Laws 2023, LB705, § 134.
Operative date July 1, 2023.

50-426 Repealed. Laws 2023, LB705, § 134.
Operative date July 1, 2023.

50-427 Repealed. Laws 2023, LB705, § 134.
Operative date July 1, 2023.

50-428 Repealed. Laws 2023, LB705, § 134.
Operative date July 1, 2023.

50-433 Nebraska Sentencing Reform Task Force; created; duties; members; reports; termination.

- (1) The Nebraska Sentencing Reform Task Force is created.
- (2) The task force shall identify and recommend changes to Nebraska's criminal justice laws, policies, and practices to improve public safety and more effectively allocate Nebraska's criminal justice system resources.
- (3) The task force shall consist of the following members:
 - (a) The Governor or the Governor's designee;
 - (b) The Attorney General or the Attorney General's designee;
 - (c) Three members of the Judiciary Committee of the Legislature appointed by the Executive Board of the Legislative Council;
 - (d) Two representatives of law enforcement appointed by the Governor;
 - (e) Two county attorneys appointed by the Governor; and
 - (f) Two criminal defense attorneys with at least ten years' experience appointed by the Governor.
- (4) The task force shall submit its first report to the Legislature no later than November 15, 2023. The task force shall submit its second report to the Legislature no later than November 15, 2024. The reports shall be submitted electronically to the Clerk of the Legislature.
- (5) Administrative and staff support for the task force shall be provided by any executive branch staff as directed by the Governor or by staff of the Judiciary Committee of the Legislature as directed by the chairperson of the Judiciary Committee.
- (6) The task force terminates on December 31, 2024.

Source: Laws 2023, LB50, § 19.

Effective date September 2, 2023.

50-434 Committee on Justice Reinvestment Oversight; created; members; duties; report; termination.

- (1) The Legislature finds that while serious crime in the State of Nebraska has not increased in the past five years, the prison population continues to increase as does the amount spent on correctional issues. The Legislature further finds that a need exists to closely examine the criminal justice system of the State of Nebraska in order to increase public safety while concurrently reducing correctional spending and reinvesting in strategies that decrease crime and strengthen Nebraska communities.
- (2) It is the intent of the Legislature that the State of Nebraska work cooperatively with the Council of State Governments Justice Center to study and identify innovative solutions and evidence-based practices to develop a data-driven approach to reduce correctional spending and reinvest savings in strategies that can decrease recidivism and increase public safety and for the executive, legislative, and judicial branches of Nebraska state government to work with the Council of State Governments Justice Center in this process.
- (3) The Committee on Justice Reinvestment Oversight is created as a special legislative committee to maintain continuous oversight of the Nebraska Justice Reinvestment Initiative and related issues.
- (4) The special legislative committee shall be comprised of five members of the Legislature selected by the Executive Board of the Legislative Council,

including the chairperson of the Judiciary Committee of the Legislature who shall serve as chairperson of the special legislative committee.

(5) The Committee on Justice Reinvestment Oversight shall monitor and guide analysis and policy development in all aspects of the criminal justice system in Nebraska within the scope of the justice reinvestment initiative, including tracking implementation of evidence-based strategies as established in Laws 2015, LB605, and reviewing policies to improve public safety, reduce recidivism, and reduce spending on corrections in Nebraska. With assistance from the Council of State Governments Justice Center, the committee shall monitor performance and measure outcomes by collecting data from counties and relevant state agencies for analysis and reporting.

(6) The committee shall prepare and submit an annual report of its activities and findings and may make recommendations to improve any aspect of the criminal justice system. The committee shall deliver the report to the Governor, the Clerk of the Legislature, and the Chief Justice by September 1 of each year. The report to the clerk shall be delivered electronically.

(7) The committee terminates on September 30, 2023.

Source: Laws 2014, LB907, § 11; R.S.Supp.,2014, § 28-1501; Laws 2015, LB605, § 76; Laws 2023, LB50, § 32.
Effective date September 2, 2023.

ARTICLE 7

MENTAL HEALTH OVERSIGHT

Section

50-702. Legislative Mental Health Care Capacity Strategic Planning Committee; established; members; independent consultant; recommendations; termination.

50-702 Legislative Mental Health Care Capacity Strategic Planning Committee; established; members; independent consultant; recommendations; termination.

(1) The Legislative Mental Health Care Capacity Strategic Planning Committee is established. The committee shall consist of the following members: (a) The chairperson of the Judiciary Committee of the Legislature or his or her designee, (b) the chairperson of the Health and Human Services Committee of the Legislature or his or her designee, (c) the chairperson of the Appropriations Committee of the Legislature or his or her designee, and (d) four senators selected by the chairperson of the Executive Board of the Legislative Council. The committee shall select a chairperson and vice-chairperson from among its members.

(2)(a) No later than November 1, 2023, the Legislative Mental Health Care Capacity Strategic Planning Committee shall contract with an independent consultant with expertise in inpatient mental health care delivery. The contract shall be awarded based on competitive bids and be subject to the approval of the Executive Board of the Legislative Council upon a recommendation of a majority of the committee. The consultant shall assist the committee in determining the necessary capacity for inpatient mental health care beds for both state-operated and privately owned facilities based on best practices in mental health care. The consultant shall provide recommendations to achieve the

necessary capacity if the current state inpatient mental health bed capacity is insufficient.

(b) On or before November 1, 2024, the consultant shall provide a written report of its findings and recommendations to the Legislative Mental Health Care Capacity Strategic Planning Committee.

(3) This section terminates on November 1, 2025.

Source: Laws 2022, LB921, § 4; Laws 2023, LB254, § 4.
Effective date May 27, 2023.

ARTICLE 12

LEGISLATIVE PERFORMANCE AUDIT ACT

Section

50-1209. Tax incentive performance audits; schedule; contents.

50-1209 Tax incentive performance audits; schedule; contents.

(1) Tax incentive performance audits shall be conducted by the office pursuant to this section on the following tax incentive programs:

- (a) The Beginning Farmer Tax Credit Act;
- (b) The ImagiNE Nebraska Act;
- (c) The Nebraska Advantage Microenterprise Tax Credit Act;
- (d) The Nebraska Advantage Research and Development Act;
- (e) The Nebraska Advantage Rural Development Act;
- (f) The Nebraska Job Creation and Mainstreet Revitalization Act;
- (g) The New Markets Job Growth Investment Act;
- (h) The Urban Redevelopment Act; and

(i) Any other tax incentive program created by the Legislature for the purpose of recruitment or retention of businesses in Nebraska. In determining whether a future tax incentive program is enacted for the purpose of recruitment or retention of businesses, the office shall consider legislative intent, including legislative statements of purpose and goals, and may also consider whether the tax incentive program is promoted as a business incentive by the Department of Economic Development or other relevant state agency.

(2) The office shall develop a schedule for conducting tax incentive performance audits and shall update the schedule annually. The schedule shall ensure that each tax incentive program is reviewed at least once every five years.

(3) Each tax incentive performance audit conducted by the office pursuant to this section shall include the following:

(a) An analysis of whether the tax incentive program is meeting the following goals:

(i) Strengthening the state's economy overall by:

- (A) Attracting new business to the state;
- (B) Expanding existing businesses;

(C) Increasing employment, particularly employment of full-time workers. The analysis shall consider whether the job growth in those businesses receiving tax incentives is at least ten percent above industry averages;

(D) Creating high-quality jobs; and

- (E) Increasing business investment;
 - (ii) Revitalizing rural areas and other distressed areas of the state;
 - (iii) Diversifying the state’s economy and positioning Nebraska for the future by stimulating entrepreneurial firms, high-tech firms, and renewable energy firms; and
 - (iv) Any other program-specific goals found in the statutes for the tax incentive program being evaluated;
 - (b) An analysis of the economic and fiscal impacts of the tax incentive program. The analysis may take into account the following considerations in addition to other relevant factors:
 - (i) The costs per full-time worker. When practical and applicable, such costs shall be considered in at least the following two ways:
 - (A) By an estimation including the minimum investment required to qualify for benefits; and
 - (B) By an estimation including all investment;
 - (ii) The extent to which the tax incentive changes business behavior;
 - (iii) The results of the tax incentive for the economy of Nebraska as a whole. This consideration includes both direct and indirect impacts generally and any effects on other Nebraska businesses; and
 - (iv) A comparison to the results of other economic development strategies with similar goals, other policies, or other incentives;
 - (c) An assessment of whether adequate protections are in place to ensure the fiscal impact of the tax incentive does not increase substantially beyond the state’s expectations in future years;
 - (d) An assessment of the fiscal impact of the tax incentive on the budgets of local governments, if applicable; and
 - (e) Recommendations for any changes to statutes or rules and regulations that would allow the tax incentive program to be more easily evaluated in the future, including changes to data collection, reporting, sharing of information, and clarification of goals.
- (4) For purposes of this section:
- (a) Distressed area means an area of substantial unemployment as determined by the Department of Labor pursuant to the Nebraska Workforce Innovation and Opportunity Act;
 - (b) Full-time worker means an individual (i) who usually works thirty-five hours per week or more, (ii) whose employment is reported to the Department of Labor on two consecutive quarterly wage reports, and (iii) who earns wages equal to or exceeding the state minimum wage;
 - (c) High-quality job means a job that:
 - (i) Averages at least thirty-five hours of employment per week;
 - (ii) Is reported to the Department of Labor on two consecutive quarterly wage reports; and
 - (iii) Earns wages that are at least ten percent higher than the statewide industry sector average and that equal or exceed:

(A) One hundred ten percent of the Nebraska average weekly wage if the job is in a county with a population of less than one hundred thousand inhabitants; or

(B) One hundred twenty percent of the Nebraska average weekly wage if the job is in a county with a population of one hundred thousand inhabitants or more;

(d) High-tech firm means a person or unitary group that has a location with any of the following four-digit code designations under the North American Industry Classification System as assigned by the Department of Labor: 3341, 3342, 3344, 3345, 3364, 5112, 5182, 5191, 5413, 5415, or 5417;

(e) Nebraska average weekly wage means the most recent average weekly wage paid by all employers in all counties in Nebraska as reported by the Department of Labor by October 1 of each year;

(f) New business means a person or unitary group participating in a tax incentive program that did not pay income taxes or wages in the state more than two years prior to submitting an application under the tax incentive program. For any tax incentive program without an application process, new business means a person or unitary group participating in the program that did not pay income taxes or wages in the state more than two years prior to the first day of the first tax year for which a tax benefit was earned;

(g) Renewable energy firm means a person or unitary group that has a location with any of the following six-digit code designations under the North American Industry Classification System as assigned by the Department of Labor: 111110, 111150, 111199, 111930, 111991, 113310, 221111, 221113, 221114, 221115, 221116, 221117, 221118, 221121, 221122, 221330, 237130, 237990, 325193, 331511, 331512, 331513, 331523, 331524, 331529, 332111, 332112, 333511, 333611, 333612, 333613, 334519, 423830, 482111, 484230, 488510, 541360, 541370, 541620, 541690, 541714, or 541715;

(h) Rural area means any village or city of the second class in this state or any county in this state with fewer than twenty-five thousand residents; and

(i) Unitary group has the same meaning as in section 77-2734.04.

Source: Laws 1992, LB 988, § 9; Laws 2003, LB 607, § 12; Laws 2013, LB39, § 7; Laws 2015, LB538, § 5; Laws 2018, LB936, § 1; Laws 2019, LB334, § 5; Laws 2020, LB1107, § 119; Laws 2021, LB84, § 1; Laws 2021, LB544, § 30; Laws 2023, LB254, § 5.
Effective date May 27, 2023.

Cross References

Beginning Farmer Tax Credit Act, see section 77-5201.
Imagine Nebraska Act, see section 77-6801.
Nebraska Advantage Microenterprise Tax Credit Act, see section 77-5901.
Nebraska Advantage Research and Development Act, see section 77-5801.
Nebraska Advantage Rural Development Act, see section 77-27,187.
Nebraska Job Creation and Mainstreet Revitalization Act, see section 77-2901.
Nebraska Workforce Innovation and Opportunity Act, see section 48-3301.
New Markets Job Growth Investment Act, see section 77-1101.
Urban Redevelopment Act, see section 77-6901.

CHAPTER 52

LIENS

Article.

4. Lien of Physician, Nurse, or Hospital. 52-401.

ARTICLE 4

LIEN OF PHYSICIAN, NURSE, OR HOSPITAL

Section

52-401. Lien; scope and operation; exception; reduction, when; claim of lien; notice; priority of claims; access to records.

52-401 Lien; scope and operation; exception; reduction, when; claim of lien; notice; priority of claims; access to records.

(1) Whenever any person employs a physician, nurse, chiropractor, hospital, or provider of emergency medical service to perform professional services of any nature, in the treatment of or in connection with an injury, and such injured person claims damages from the party causing the injury, such physician, nurse, chiropractor, hospital, or provider of emergency medical service, shall have a lien upon any sum awarded the injured person in judgment or obtained by settlement or compromise on the amount due for the usual and customary charges of such physician, nurse, chiropractor, hospital, or provider of emergency medical service applicable at the time services are performed, except that no such lien shall be valid against anyone covered under the Nebraska Workers' Compensation Act. For persons covered under private medical insurance or another private health benefit plan, the amount of the lien shall be reduced by the contracted discount or other limitation which would have been applied had the claim been submitted for reimbursement to the medical insurer or administrator of such other health benefit plan. The measure of damages for medical expenses in personal injury claims shall be the private party rate, not the discounted amount.

(2) In order to prosecute such lien, it shall be necessary for such physician, nurse, chiropractor, hospital, or provider of emergency medical service to serve a written notice upon the person or corporation from whom damages are claimed that such physician, nurse, chiropractor, hospital, or provider of emergency medical service claims a lien for such services and stating the amount due and the nature of such services, except that whenever an action is pending in court for the recovery of such damages, it shall be sufficient to file the notice of such lien in the pending action.

(3) A physician, nurse, chiropractor, hospital, or provider of emergency medical service claiming a lien under this section shall not be liable for attorney's fees and costs incurred by the injured person in securing the judgment, settlement, or compromise, but the lien of the injured person's attorney shall have precedence over the lien created by this section.

(4) Upon a written request and with the injured person's consent, a lienholder shall provide medical records, answers to interrogatories, depositions, or any

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expert medical testimony related to the recovery of damages within its custody and control at a reasonable charge to the injured person.

(5) For purposes of this section, provider of emergency medical service means a public entity that provides emergency medical service as defined in section 38-1207.

Source: Laws 1927, c. 162, § 1, p. 425; C.S.1929, § 52-401; R.S.1943, § 52-401; Laws 1986, LB 811, § 138; Laws 1995, LB 172, § 1; Laws 2008, LB586, § 1; Laws 2023, LB157, § 14.
Operative date September 2, 2023.

Cross References

Nebraska Workers' Compensation Act, see section 48-1,110.

CHAPTER 53

LIQUORS

Article.

1. Nebraska Liquor Control Act.
 - (a) General Provisions. 53-101 to 53-103.51.
 - (c) Nebraska Liquor Control Commission; General Powers. 53-117.06.
 - (d) Licenses; Issuance and Revocation. 53-123.11 to 53-124.11.
 - (g) Operational Requirements for Manufacturers, Wholesalers, and Shippers. 53-165.01 to 53-165.03.
 - (i) Prohibited Acts. 53-168 to 53-171.

ARTICLE 1

NEBRASKA LIQUOR CONTROL ACT

(a) GENERAL PROVISIONS

Section

- 53-101. Act, how cited.
 53-103. Definitions, where found.
 53-103.50. Channel pricing, defined.
 53-103.51. Primary source of supply in the United States, defined.

(c) NEBRASKA LIQUOR CONTROL COMMISSION; GENERAL POWERS

- 53-117.06. Nebraska Liquor Control Commission Rule and Regulation Cash Fund; created; use; investment.

(d) LICENSES; ISSUANCE AND REVOCATION

- 53-123.11. Farm winery license; rights of licensee; removal of unsealed bottle of wine; conditions; sales for consumption off the premises; conditions; notice to commission, required.
 53-123.16. Microdistillery license; rights of licensee.
 53-124.11. Special designated license; issuance; procedure; fee.

(g) OPERATIONAL REQUIREMENTS FOR MANUFACTURERS, WHOLESALEERS, AND SHIPPERS

- 53-165.01. Primary source of supply in the United States; report by licensed manufacturer, licensed wholesaler, or holder of a shipping license; fee.
 53-165.02. Channel pricing and discounts; use by wholesaler; conditions.
 53-165.03. Sponsorship or advertising agreement; authorized, when.

(i) PROHIBITED ACTS

- 53-168. Receiving money, credit, discounts, rebates, or other inducement; unlawful acts; penalty; private or generic label permitted; exception for sponsorship or advertising agreement.
 53-169. Manufacturer or wholesaler; craft brewery, manufacturer, or microdistillery licensee; limitations; exception for sponsorship or advertising agreement.
 53-171. Licenses; issuance of more than one kind to same person; when unlawful; craft brewery, manufacturer, or microdistillery licensee; limitations.

(a) GENERAL PROVISIONS

53-101 Act, how cited.

Sections 53-101 to 53-1,122 shall be known and may be cited as the Nebraska Liquor Control Act.

Source: Laws 1935, c. 116, § 1, p. 373; C.S.Supp.,1941, § 53-301; R.S. 1943, § 53-101; Laws 1988, LB 490, § 3; Laws 1988, LB 901,

§ 1; Laws 1988, LB 1089, § 1; Laws 1989, LB 70, § 1; Laws 1989, LB 441, § 1; Laws 1989, LB 781, § 1; Laws 1991, LB 344, § 2; Laws 1991, LB 582, § 1; Laws 1993, LB 183, § 1; Laws 1993, LB 332, § 1; Laws 1994, LB 1292, § 1; Laws 2000, LB 973, § 1; Laws 2001, LB 114, § 1; Laws 2004, LB 485, § 2; Laws 2006, LB 845, § 1; Laws 2007, LB549, § 1; Laws 2007, LB578, § 1; Laws 2009, LB232, § 1; Laws 2009, LB355, § 1; Laws 2010, LB258, § 1; Laws 2010, LB861, § 7; Laws 2011, LB407, § 1; Laws 2012, LB824, § 1; Laws 2012, LB1130, § 1; Laws 2015, LB118, § 2; Laws 2015, LB330, § 2; Laws 2018, LB1120, § 1; Laws 2020, LB734, § 1; Laws 2021, LB274, § 1; Laws 2022, LB1204, § 1; Laws 2023, LB376, § 1.
Effective date April 22, 2023.

53-103 Definitions, where found.

For purposes of the Nebraska Liquor Control Act, the definitions found in sections 53-103.01 to 53-103.51 apply.

Source: Laws 1935, c. 116, § 2, p. 374; C.S.Supp.,1941, § 53-302; R.S. 1943, § 53-103; Laws 1961, c. 258, § 1, p. 757; Laws 1963, c. 310, § 1, p. 919; Laws 1963, Spec. Sess., c. 4, § 1, p. 66; Laws 1963, Spec. Sess., c. 5, § 1, p. 71; Laws 1965, c. 318, § 2, p. 886; Laws 1965, c. 319, § 1, p. 904; Laws 1969, c. 298, § 1, p. 1072; Laws 1971, LB 234, § 2; Laws 1971, LB 752, § 1; Laws 1972, LB 1086, § 2; Laws 1973, LB 111, § 1; Laws 1980, LB 221, § 2; Laws 1980, LB 848, § 1; Laws 1981, LB 483, § 1; Laws 1983, LB 213, § 2; Laws 1984, LB 56, § 1; Laws 1985, LB 183, § 1; Laws 1985, LB 279, § 2; Laws 1986, LB 871, § 1; Laws 1986, LB 911, § 2; Laws 1987, LB 468, § 1; Laws 1988, LB 490, § 4; Laws 1988, LB 901, § 2; Laws 1988, LB 1089, § 2; Laws 1989, LB 154, § 1; Laws 1989, LB 441, § 2; Laws 1991, LB 344, § 5; Laws 1993, LB 121, § 317; Laws 1994, LB 859, § 2; Laws 1994, LB 1313, § 2; Laws 1996, LB 750, § 1; Laws 1996, LB 1090, § 1; Laws 1999, LB 267, § 2; Laws 2001, LB 114, § 2; Laws 2001, LB 278, § 1; Laws 2003, LB 536, § 2; Laws 2004, LB 485, § 3; Laws 2006, LB 562, § 1; Laws 2007, LB549, § 2; Laws 2008, LB1103, § 1; Laws 2009, LB137, § 1; Laws 2009, LB355, § 2; Laws 2010, LB788, § 1; Laws 2010, LB861, § 8; Laws 2012, LB824, § 2; Laws 2015, LB330, § 3; Laws 2018, LB1120, § 2; Laws 2021, LB274, § 2; Laws 2023, LB376, § 2.
Effective date April 22, 2023.

53-103.50 Channel pricing, defined.

Channel pricing means a pricing strategy that differentiates the price charged for a product based upon the type of license held by the retailer and the primary use of the premises on which the retailer operates.

Source: Laws 2023, LB376, § 3.

Effective date April 22, 2023.

53-103.51 Primary source of supply in the United States, defined.

(1) Primary source of supply in the United States means:

- (a) The manufacturer, producer, or owner of any alcoholic liquor at the time it becomes a marketable product in the United States;
- (b) The bottler of any alcoholic liquor in the United States;
- (c) The exclusive agent within the United States or any of the states of any manufacturer, producer, owner, or bottler of any alcoholic liquor outside the United States; or
- (d) A licensed Nebraska craft brewery, farm winery, microdistillery, or manufacturer.

(2) To be the primary source of supply in the United States, the licensee causing such alcoholic liquor to be imported into Nebraska must be the first source, such as the manufacturer or the source closest to the manufacturer, in the channel of commerce from which the product can be secured by Nebraska licensed wholesalers.

Source: Laws 2023, LB376, § 4.
Effective date April 22, 2023.

(c) NEBRASKA LIQUOR CONTROL COMMISSION; GENERAL POWERS

53-117.06 Nebraska Liquor Control Commission Rule and Regulation Cash Fund; created; use; investment.

Any money collected by the commission pursuant to section 53-117.05, 53-165.01, or 53-167.02 shall be credited to the Nebraska Liquor Control Commission Rule and Regulation Cash Fund, which fund is hereby created. The purpose of the fund shall be to cover any administrative costs, including salary and benefits, incurred by the commission in producing or distributing the material referred to in such sections and to defray the costs associated with electronic regulatory transactions, industry education events, enforcement training, and equipment for regulatory work. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Nebraska Liquor Control Commission Rule and Regulation 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 70, § 4; Laws 1989, LB 781, § 18; Laws 1993, LB 183, § 7; Laws 1993, LB 332, § 6; Laws 1994, LB 1066, § 42; Laws 2008, LB993, § 1; Laws 2009, First Spec. Sess., LB3, § 28; Laws 2013, LB199, § 23; Laws 2023, LB376, § 8.
Effective date April 22, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

(d) LICENSES; ISSUANCE AND REVOCATION

53-123.11 Farm winery license; rights of licensee; removal of unsealed bottle of wine; conditions; sales for consumption off the premises; conditions; notice to commission, required.

- (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 as designated pursuant to section 53-123.12;

(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;

(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; and

(i) Sell alcoholic liquor authorized under a farm winery license not in its original package, such as sangria or wine slushies, to a person twenty-one years of age or older for consumption off the premises if (i) the alcoholic liquor is (A) not partially consumed and (B) in a labeled and sealed container with a tamper-evident lid, cap, or seal, as approved by the commission, and (ii) for alcoholic liquor transported in a motor vehicle, the alcoholic liquor is 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. A farm winery which sells alcoholic liquor authorized under a farm winery license not in its original package for consumption off the premises shall provide notice to the commission during a farm winery licensee's initial licensure or at the time of the annual renewal of such license regarding such sales.

(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 sell beer or other alcoholic liquor not produced by the farm winery at retail for consumption on the premises if the holder is also issued the appropriate retail license for such sales at such location.

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

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

(7) A holder of a farm winery license may obtain a promotional farmers market special designated license pursuant to section 53-124.16.

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; Laws 2020, LB1056, § 4; Laws 2021, LB274, § 10; Laws 2023, LB376, § 9.
Effective date April 22, 2023.

53-123.16 Microdistillery license; rights of licensee.

(1) Any person who operates a microdistillery shall obtain a license pursuant to the Nebraska Liquor Control Act. A license to operate a microdistillery shall permit the licensee to produce a maximum of one hundred thousand gallons of liquor per year in the aggregate from all physical locations comprising the licensed premises. For purposes of this section, licensed premises may include up to five separate physical locations. A microdistillery may also sell to licensed wholesalers for sale and distribution to licensed retailers. A microdistillery license issued pursuant to this section shall be the only license required by the Nebraska Liquor Control Act for the manufacture and retail sale of microdistilled product for consumption on or off the licensed premises, except that the sale of any beer, wine, or alcoholic liquor, other than microdistilled product manufactured by the microdistillery licensee, by the drink for consumption on the microdistillery premises shall require the appropriate retail license. Any license held by the operator of a microdistillery shall be subject to the act. A holder of a microdistillery license may obtain an annual catering license pursuant to section 53-124.12, a special designated license pursuant to section 53-124.11, an entertainment district license pursuant to section 53-123.17, or a promotional farmers market special designated license pursuant to section 53-124.16. The commission may, upon the conditions it determines, grant to any microdistillery licensed under this section a special license authorizing the microdistillery to purchase and to import, from such persons as are entitled to sell the same, wines or spirits to be used solely as ingredients and for the sole purpose of blending with and flavoring microdistillery products as a part of the microdistillation process.

(2) A holder of a microdistillery license may directly sell for resale up to five hundred gallons per calendar year of microdistilled products produced at its licensed premises directly to retail licensees located in the State of Nebraska

which hold the appropriate retail license if the holder of the microdistillery license:

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

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

(3) A holder of a microdistillery license may store and warehouse tax-paid products produced on such licensee's licensed premises in a designated, secure, offsite storage facility if the holder of the microdistillery license receives authorization from the commission and notifies the commission of the location of the storage facility and maintains, at the microdistillery and at the storage facility, a separate perpetual inventory of the product stored at the storage facility. Consumption of alcoholic liquor at the storage facility is strictly prohibited.

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

Source: Laws 2007, LB549, § 6; Laws 2012, LB1130, § 5; Laws 2021, LB274, § 12; Laws 2022, LB1236, § 2; Laws 2023, LB376, § 10.
Effective date April 22, 2023.

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)(a) 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, except that a nonprofit corporation, the purpose of which is fraternal, charitable, or public service and which has been exempted from the payment of federal income taxes, may be issued a special designated license for up to twelve calendar days in any one calendar year. Only one special designated license shall be required for any application for two or more consecutive days.

(b) 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, may apply

for special designated licenses for the same location in a single application. The application shall include all dates and times for which a special designated license is being requested at such location.

(c) 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 or to an organization or corporation as provided in subdivision (2)(b) of this section, there shall be a fee of forty dollars for each day identified in the special designated license. For a special designated license issued to an organization or corporation as provided in subdivision (2)(b) of this section, there shall be a fee of forty dollars for the initial special designated license and ten dollars for each additional day beyond the first at the same location in such application. 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; Laws 2022, LB1236, § 3; Laws 2023, LB376, § 11.

Effective date April 22, 2023.

(g) OPERATIONAL REQUIREMENTS FOR MANUFACTURERS,
WHOLESALEERS, AND SHIPPERS

53-165.01 Primary source of supply in the United States; report by licensed manufacturer, licensed wholesaler, or holder of a shipping license; fee.

(1)(a) Beginning July 1, 2024, prior to the sale or shipment of any alcoholic liquor into the State of Nebraska, each licensed manufacturer, licensed wholesaler, or holder of a shipping license shall submit to the commission, along with any applicable fee set by the commission not to exceed thirty dollars, a report on a form prescribed and furnished by the commission, which shall include:

- (i) The licensee's name and license number;
- (ii) The designated Nebraska licensed wholesaler for such product, if applicable;
- (iii) The name of the primary source of supply in the United States;
- (iv) The products to be imported, including the brand name, class or type of product, and fanciful name if applicable;
- (v) Evidence of compliance with federal label requirements pursuant to the Federal Alcohol Administration Act, 27 U.S.C. chapter 8, and rules and regulations adopted pursuant to such act, as such act and regulations existed on January 1, 2023, or a sample of the actual label if federal approval is not required; and
- (vi) Any other information the commission may require related to such sale or shipment.

(b) If the licensed manufacturer, licensed wholesaler, or holder of a shipping license is not the product manufacturer, such licensee shall also include with such form a separate letter from the product manufacturer designating such

licensee as the primary source of supply in the United States or the sole source of supply in Nebraska. A separate letter is required for each primary source.

(2) If the primary source of supply in the United States for such alcoholic liquor changes, the new licensed manufacturer, licensed wholesaler, or holder of a shipping license importing such alcoholic liquor shall submit the information required pursuant to subsection (1) of this section at least thirty days prior to the shipment of such alcoholic liquor into this state. The licensed manufacturer, licensed wholesaler, or holder of a shipping license shall also remit to the commission any applicable fee set by the commission not to exceed thirty dollars.

(3) Nothing in this section shall restrict or prohibit the importation of alcoholic liquor to a Nebraska licensed wholesaler from an affiliated wholesaler if (a) the report required by this section has previously been submitted for the alcoholic liquor product being imported, (b) the report designates the Nebraska licensed wholesaler for such product, and (c) the product was obtained by the affiliated wholesaler from the same primary source of supply identified on the report.

(4) The commission shall remit any fees collected pursuant to this section to the State Treasurer for credit to the Nebraska Liquor Control Commission Rule and Regulation Cash Fund.

(5) The commission may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2023, LB376, § 5.
Effective date April 22, 2023.

53-165.02 Channel pricing and discounts; use by wholesaler; conditions.

(1) For purposes of this section, alcoholic product means a particular brand of alcoholic liquor in a designated size container or a mix of brands and containers when sold on a combined basis, as established by the wholesaler.

(2) A wholesaler may employ channel pricing to sell such wholesaler's alcoholic product to retail licensees at a different price than the wholesaler sells alcoholic product to other retail licensees. If a wholesaler employs channel pricing, such pricing shall be made equally available to similarly situated retail licensees.

(3) Whether an establishment is similarly situated to another licensee is to be determined by the type of license held by the retailer and the primary use of the premises.

(4) A wholesaler may also provide discounts on the alcoholic product to retailers that are otherwise similarly situated if those discounts are based on the volume of the alcoholic product being purchased.

(5) A wholesaler may also provide discounts on the alcoholic product to retailers that are otherwise similarly situated if those discounts are based on the electronic ordering of the alcoholic product being purchased.

Source: Laws 2023, LB376, § 6.
Effective date April 22, 2023.

53-165.03 Sponsorship or advertising agreement; authorized, when.

(1) A manufacturer, a wholesaler, or any agent of a manufacturer or wholesaler may enter into a sponsorship or advertising agreement with (a) the holder of a special designated license pursuant to section 53-124.11 that is a municipal corporation, a fine arts museum incorporated as a nonprofit corporation, a religious nonprofit corporation exempted from payment of federal income taxes, a political organization exempted from 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 payment of federal income taxes, (b) a political subdivision of the State of Nebraska, or (c) an operator of property owned by a political subdivision of the State of Nebraska, to sponsor and advertise for events held by such organization, licensee, or political subdivision.

(2) The commission may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2023, LB376, § 7.
Effective date April 22, 2023.

(i) PROHIBITED ACTS

53-168 Receiving money, credit, discounts, rebates, or other inducement; unlawful acts; penalty; private or generic label permitted; exception for sponsorship or advertising agreement.

(1) It shall be unlawful for any person having a retail license to sell beer to accept credit for the purchase of beer from any manufacturer or wholesaler of beer and for any person having a retail license to sell alcoholic liquor or any officer, associate, member, representative, or agent of such licensee to accept, receive, or borrow money or anything else of value or to accept or to receive credit, other than merchandising credit in the ordinary course of business for a period not to exceed thirty days, directly or indirectly, from (a) any person, partnership, limited liability company, or corporation engaged in manufacturing or wholesaling such liquor, (b) any person connected with or in any way representing such manufacturer or wholesaler, (c) any member of the family of such manufacturer or wholesaler, (d) any stockholders in any corporation engaged in manufacturing or wholesaling such liquor, or (e) any officer, manager, agent, member, or representative of such manufacturer or wholesaler.

(2) It shall be unlawful for any manufacturer or wholesaler to give or lend money or otherwise loan or extend credit, except the merchandising credit referred to in subsection (1) of this section, directly or indirectly, to any such licensee or to the manager, representative, agent, member, officer, or director of such licensee. It shall be unlawful for any wholesaler to participate in any manner in a merchandising and coupon plan of any manufacturer involving alcoholic liquor and the redemption in cash. The redemption of any merchandising and coupon plan involving cash shall be made by the manufacturer to the consumer.

(3) If any holder of a license to sell alcoholic liquor at retail or wholesale violates subsection (1) or (2) of this section, such license shall be suspended or revoked by the commission in the manner provided by the Nebraska Liquor Control Act.

(4) It shall not be a violation of subsection (1) or (2) of this section for a manufacturer or wholesaler to sell or provide alcoholic liquor exclusively or in minimum quantities in containers bearing a private label or to sell or provide alcoholic liquor in containers bearing a generic label to a wholesaler or retailer.

(5) It shall not be a violation of subsection (1) or (2) of this section for a wholesaler or retailer to accept or purchase from a manufacturer or wholesaler alcoholic liquor exclusively or in minimum quantities in containers bearing a private label or for a wholesaler or retailer to accept or purchase from a manufacturer or wholesaler alcoholic liquor in containers bearing a generic label.

(6) It shall not be a violation of subsection (1) or (2) of this section for a wholesaler or manufacturer or the agent of a wholesaler or manufacturer to enter into a sponsorship or advertising agreement with a licensee, organization, or political subdivision of the State of Nebraska pursuant to section 53-165.03.

Source: Laws 1935, c. 116, § 29, p. 395; Laws 1941, c. 104, § 1, p. 424; C.S.Supp., 1941, § 53-329; R.S. 1943, § 53-168; Laws 1953, c. 182, § 2, p. 573; Laws 1953, c. 181, § 1, p. 571; Laws 1967, c. 335, § 1, p. 896; Laws 1969, c. 441, § 1, p. 1475; Laws 1969, c. 442, § 1, p. 1478; Laws 1969, c. 443, § 1, p. 1480; Laws 1980, LB 874, § 1; Laws 1981, LB 483, § 2; Laws 1985, LB 183, § 2; Laws 1991, LB 344, § 51; Laws 1993, LB 121, § 321; Laws 2004, LB 485, § 28; Laws 2023, LB376, § 12.

Effective date April 22, 2023.

53-169 Manufacturer or wholesaler; craft brewery, manufacturer, or micro-distillery licensee; limitations; exception for sponsorship or advertising agreement.

(1) Except as provided in subsection (2) of this section, no manufacturer or wholesaler shall directly or indirectly: (a) Pay for any license to sell alcoholic liquor at retail or advance, furnish, lend, or give money for payment of such license; (b) purchase or become the owner of any note, mortgage, or other evidence of indebtedness of such licensee or any form of security therefor; (c) be interested in the ownership, conduct, or operation of the business of any licensee authorized to sell alcoholic liquor at retail; or (d) be interested directly or indirectly or as owner, part owner, lessee, or lessor thereof in any premises upon which alcoholic liquor is sold at retail.

(2) This section does not apply to the holder of a farm winery license. The holder of a craft brewery license shall have the privileges and duties listed in section 53-123.14 and the holder of a manufacturer's license shall have the privileges and duties listed in section 53-123.01 with respect to the manufacture, distribution, and retail sale of beer, and except as provided in subsection (2) of section 53-123.14, the Nebraska Liquor Control Act shall not be construed to permit the holder of a craft brewery license or of a manufacturer's license issued pursuant to section 53-123.01 to engage in the wholesale distribution of beer. The holder of a microdistillery license shall have the privileges and duties listed in section 53-123.16 with respect to the manufacture of alcoholic liquor, and except as provided in subsection (2) of section 53-123.16, the Nebraska Liquor Control Act shall not be construed to permit the holder of

a microdistillery license to engage in the wholesale distribution of alcoholic liquor.

(3) It shall not be a violation of this section for a wholesaler or manufacturer or the agent of a wholesaler or manufacturer to enter into a sponsorship or advertising agreement with a licensee, organization, or political subdivision of the State of Nebraska pursuant to section 53-165.03.

Source: Laws 1935, c. 116, § 30, p. 396; C.S.Supp.,1941, § 53-330; R.S.1943, § 53-169; Laws 1947, c. 187, § 2, p. 619; Laws 1953, c. 182, § 3, p. 574; Laws 1961, c. 258, § 5, p. 765; Laws 1971, LB 751, § 5; Laws 1981, LB 483, § 3; Laws 1985, LB 183, § 5; Laws 1985, LB 279, § 11; Laws 1988, LB 1089, § 24; Laws 1991, LB 344, § 54; Laws 1996, LB 750, § 11; Laws 2007, LB549, § 17; Laws 2016, LB1105, § 25; Laws 2022, LB1236, § 5; Laws 2023, LB376, § 13.

Effective date April 22, 2023.

53-171 Licenses; issuance of more than one kind to same person; when unlawful; craft brewery, manufacturer, or microdistillery licensee; limitations.

(1) No person licensed as a wholesaler of alcoholic liquor shall be permitted to receive any retail license at the same time. No person licensed as a manufacturer shall be permitted to receive any retail license at the same time except as set forth in subsection (2) of section 53-123.01 with respect to the manufacture, distribution, and retail sale of beer, and the Nebraska Liquor Control Act shall not be construed to permit the holder of a manufacturer's license issued pursuant to such subsection to engage in the wholesale distribution of alcoholic liquor. No person licensed as a retailer of alcoholic liquor shall be permitted to receive any manufacturer's or wholesale license at the same time.

(2) This section shall not apply to the holder of a farm winery license. The holder of a craft brewery license shall have the privileges and duties listed in section 53-123.14 with respect to the manufacture, distribution, and retail sale of beer, and except as provided in subsection (2) of section 53-123.14, the Nebraska Liquor Control Act shall not be construed to permit the holder of a craft brewery license to engage in the wholesale distribution of beer. The holder of a microdistillery license shall have the privileges and duties listed in section 53-123.16 with respect to the manufacture of alcoholic liquor, and except as provided in subsection (2) of section 53-123.16, the Nebraska Liquor Control Act shall not be construed to permit the holder of a microdistillery license to engage in the wholesale distribution of alcoholic liquor.

Source: Laws 1935, c. 116, § 30, p. 397; C.S.Supp.,1941, § 53-330; R.S.1943, § 53-171; Laws 1953, c. 182, § 1, p. 573; Laws 1969, c. 441, § 4, p. 1478; Laws 1985, LB 279, § 12; Laws 1988, LB 1089, § 25; Laws 1991, LB 344, § 56; Laws 1996, LB 750, § 12; Laws 2007, LB549, § 18; Laws 2016, LB1105, § 26; Laws 2022, LB1236, § 6; Laws 2023, LB376, § 14.

Effective date April 22, 2023.

CHAPTER 57

MINERALS, OIL, AND GAS

Article.

9. Oil and Gas Conservation. 57-904.

ARTICLE 9

OIL AND GAS CONSERVATION

Section

57-904. Nebraska Oil and Gas Conservation Commission; members; qualifications; appointment; term; quorum; vacancy; compensation; expenses.

57-904 Nebraska Oil and Gas Conservation Commission; members; qualifications; appointment; term; quorum; vacancy; compensation; expenses.

There is hereby established the Nebraska Oil and Gas Conservation Commission. The commission shall consist of three members to be appointed by the Governor. The director of the state geological survey shall serve the commission in the capacity as its technical advisor, but with no power to vote. Any two commissioners shall constitute a quorum for all purposes. At least one member of the commission shall have had experience in the production of oil or gas and shall have resided in the State of Nebraska for at least one year. Each of the other members of the commission shall have resided in the State of Nebraska for at least three years. Initially, two of said members shall be appointed for a term of two years each; and one shall be appointed for a term of four years. At the expiration of the initial terms all members thereafter appointed shall serve for a term of four years. The Governor may at any time remove any appointed member of the commission for cause, and by appointment, with the approval of the Legislature, shall fill any vacancy on the commission.

The members of the commission shall receive as compensation for their services the sum of five hundred dollars per day for each day actually devoted to the business of the commission. Such amount shall be adjusted on July 1, 2025, and on July 1 of each odd-numbered year thereafter by the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the two-year period preceding the date of adjustment. In addition, each member of the commission shall be reimbursed for expenses incurred in connection with the carrying out of his or her duties as provided in sections 81-1174 to 81-1177.

Source: Laws 1959, c. 262, § 4, p. 902; Laws 1979, LB 90, § 1; Laws 1981, LB 204, § 99; Laws 2018, LB1008, § 2; Laws 2020, LB381, § 50; Laws 2023, LB565, § 33.
Operative date September 2, 2023.

CHAPTER 58

MONEY AND FINANCING

Article.

2. Nebraska Investment Finance Authority. 58-201 to 58-273.

ARTICLE 2

NEBRASKA INVESTMENT FINANCE AUTHORITY

Section

- 58-201. Act, how cited.
 58-209.01. Blighted area, defined.
 58-242. Authority; agricultural projects; duties.
 58-273. Building housing for individuals with disabilities; authority; duties; collaboration required.

58-201 Act, how cited.

Sections 58-201 to 58-273 shall be known and may be cited as the Nebraska Investment Finance Authority Act.

Source: Laws 1983, LB 626, § 1; Laws 1986, LB 1230, § 29; Laws 1989, LB 311, § 1; Laws 1989, LB 706, § 1; Laws 1991, LB 253, § 1; Laws 1992, LB 1001, § 2; Laws 1996, LB 1322, § 1; Laws 2002, LB 1211, § 3; Laws 2006, LB 693, § 1; Laws 2023, LB92, § 73.
 Operative date September 2, 2023.

58-209.01 Blighted area, defined.

Blighted area has the same meaning as in section 18-2103.

Source: Laws 1984, LB 1084, § 4; Laws 1991, LB 253, § 11; Laws 2023, LB531, § 24.
 Operative date June 7, 2023.

58-242 Authority; agricultural projects; duties.

Prior to exercising any of the powers authorized by the Nebraska Investment Finance Authority Act regarding agricultural projects as defined in subdivision (2) of section 58-219, the authority shall require:

(1) That no loan will be made to any person with a net worth of more than one million dollars;

(2) That the lender certify and agree that it will use the proceeds of such loan, investment, sale, or assignment within a reasonable period of time to make loans or purchase loans to provide agricultural enterprises or, if such lender has made a commitment to make loans to provide agricultural enterprises on the basis of a commitment from the authority to purchase such loans, such lender will make such loans and sell the same to the authority within a reasonable period of time;

(3) That the lender certify that the borrower is an individual who is actively engaged in or who will become actively engaged in an agricultural enterprise after he or she receives the loan or that the borrower is a firm, partnership,

limited liability company, corporation, or other entity with all owners, partners, members, or stockholders thereof being natural persons who are actively engaged in or who will be actively engaged in an agricultural enterprise after the loan is received;

(4) That the aggregate amount of the loan received by a borrower shall not exceed five hundred seventeen thousand seven hundred dollars, as such amount shall be adjusted for inflation in accordance with section 147(c) of the Internal Revenue Code of 1986, as amended. In computing such amount a loan received by an individual shall be aggregated with those loans received by his or her spouse and minor children and a loan received by a firm, partnership, limited liability company, or corporation shall be aggregated with those loans received by each owner, partner, member, or stockholder thereof; and

(5) That the recipient of the loan be identified in the minutes of the authority prior to or at the time of adoption by the authority of the resolution authorizing the issuance of the bonds which will provide for financing of the loan.

Source: Laws 1983, LB 626, § 42; Laws 1991, LB 253, § 43; Laws 1993, LB 121, § 356; Laws 2005, LB 90, § 17; Laws 2015, LB515, § 1; Laws 2023, LB562, § 12.

Effective date September 2, 2023.

58-273 Building housing for individuals with disabilities; authority; duties; collaboration required.

(1) For purposes of this section, Olmstead Plan means the comprehensive strategic plan for providing services to individuals with disabilities that was developed in accordance with section 81-6,122.

(2) In order to help fulfill one of the goals of the Olmstead Plan, the authority shall use its best efforts to obtain state and federal grants for the purpose of building safe, affordable, and accessible housing for individuals with disabilities.

(3) The authority shall collaborate with the Department of Economic Development and the Department of Health and Human Services in obtaining such grants.

Source: Laws 2023, LB92, § 74.

Operative date September 2, 2023.

CHAPTER 59

MONOPOLIES AND UNLAWFUL RESTRAINT OF TRADE

Article.

17. Seller-Assisted Marketing Plan. 59-1722.

ARTICLE 17

SELLER-ASSISTED MARKETING PLAN

Section

59-1722. Transaction involving the sale of a franchise; exempt; exception; conditions; fee.

59-1722 Transaction involving the sale of a franchise; exempt; exception; conditions; fee.

(1) Any transaction involving the sale of a franchise as defined in 16 C.F.R. 436.1(h), as such regulation existed on January 1, 2023, shall be exempt from the Seller-Assisted Marketing Plan Act, except that such transactions shall be subject to subdivision (1)(d) of section 59-1757, those provisions regulating or prescribing the use of the phrase buy-back or secured investment or similar phrases as set forth in sections 59-1726 to 59-1728 and 59-1751, and all sections which provide for their enforcement. The exemption shall only apply if:

(a) The franchise is offered and sold in compliance with the requirements of 16 C.F.R. part 436, Disclosure Requirements and Prohibitions Concerning Franchising, as such part existed on January 1, 2023;

(b) Before placing any advertisement in a Nebraska-based publication, offering for sale to any prospective purchaser in Nebraska, or making any representations in connection with such offer or sale to any prospective purchaser in Nebraska, the seller files a notice with the Department of Banking and Finance which contains (i) the name, address, and telephone number of the seller and the name under which the seller intends to do business and (ii) a brief description of the plan offered by the seller; and

(c) The seller pays a filing fee of one hundred dollars.

(2) The department may request a copy of the disclosure document upon receipt of a written complaint or inquiry regarding the seller or upon a reasonable belief that a violation of the Seller-Assisted Marketing Plan Act has occurred or may occur. The seller shall provide such copy within ten business days of receipt of the request.

(3) All funds collected by the department under this section shall be remitted to the State Treasurer for credit to the Securities Act Cash Fund.

(4) The Director of Banking and Finance may by order deny or revoke an exemption specified in this section with respect to a particular offering of one or more business opportunities if the director finds that such an order is in the public interest or is necessary for the protection of purchasers. An order shall not be entered without appropriate prior notice to all interested parties, an

opportunity for hearing, and written findings of fact and conclusions of law. If the public interest or the protection of purchasers so requires, the director may by order summarily deny or revoke an exemption specified in this section pending final determination of any proceedings under this section. An order under this section shall not operate retroactively.

Source: Laws 1979, LB 180, § 22; Laws 1993, LB 218, § 9; Laws 2001, LB 53, § 108; Laws 2013, LB214, § 11; Laws 2020, LB909, § 47; Laws 2021, LB363, § 29; Laws 2022, LB707, § 42; Laws 2023, LB92, § 76.
Operative date June 7, 2023.

CHAPTER 60

MOTOR VEHICLES

Article.

1. Motor Vehicle Certificate of Title Act. 60-107 to 60-169.
3. Motor Vehicle Registration. 60-302.01 to 60-3,193.01.
4. Motor Vehicle Operators' Licenses.
 - (e) General Provisions. 60-462, 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. 60-4,115 to 60-4,122.
 - (h) Provisions Applicable to Operation of Commercial Motor Vehicles. 60-4,132 to 60-4,172.
 - (j) State Identification Cards. 60-4,181.
5. Motor Vehicle Safety Responsibility.
 - (a) Definitions. 60-501.
6. Nebraska Rules of the Road.
 - (a) General Provisions. 60-601 to 60-640.
 - (b) Powers of State and Local Authorities. 60-678.
 - (u) Occupant Protection Systems and Three-point Safety Belt Systems. 60-6,265.
 - (w) Helmets and Eye Protection. 60-6,279, 60-6,282.
27. Manufacturer's Warranty Duties. 60-2705.
29. Uniform Motor Vehicle Records Disclosure Act. 60-2909.01.

ARTICLE 1

MOTOR VEHICLE CERTIFICATE OF TITLE ACT

Section

- 60-107. Cabin trailer, defined.
- 60-119.01. Low-speed vehicle, defined.
- 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.

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, 2023, 42 U.S.C. 5401 et seq.

Source: Laws 2005, LB 276, § 7; Laws 2008, LB797, § 1; Laws 2019, LB79, § 1; Laws 2020, LB944, § 5; Laws 2021, LB149, § 1; Laws 2022, LB750, § 5; Laws 2023, LB138, § 7.
Operative date September 2, 2023.

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, 2023, 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; Laws 2020, LB944, § 6; Laws 2021, LB149, § 2; Laws 2022, LB750, § 6; Laws 2023, LB138, § 8.
Operative date September 2, 2023.

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 imple-

mentation 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, 2023, 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, 2023. 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, 2023.

(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; Laws 2022, LB750, § 11; Laws 2023, LB138, § 9.
Operative date September 2, 2023.

ARTICLE 3

MOTOR VEHICLE REGISTRATION

Section
60-302.01. Access aisle, defined.

§ 60-302.01

MOTOR VEHICLES

Section

- 60-336.01. Low-speed vehicle, defined.
- 60-386. Application; contents.
- 60-3,113.04. Handicapped or disabled person; parking permit; contents; issuance; duplicate permit.
- 60-3,193.01. International Registration Plan; adopted.

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, 2023.

Source: Laws 2011, LB163, § 18; Laws 2019, LB79, § 3; Laws 2020, LB944, § 11; Laws 2021, LB149, § 3; Laws 2022, LB750, § 12; Laws 2023, LB138, § 10.

Operative date September 2, 2023.

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, 2023, 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; Laws 2020, LB944, § 13; Laws 2021, LB149, § 4; Laws 2022, LB750, § 13; Laws 2023, LB138, § 11.

Operative date September 2, 2023.

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 through 390.21, as such regulations existed on January 1, 2023, and the weight of the motor vehicle or trailer required by the Motor Vehicle Registration Act. 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) 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; Laws 2020, LB944, § 14; Laws 2021, LB149, § 5; Laws 2022, LB750, § 14; Laws 2023, LB138, § 12.
Operative date September 2, 2023.

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, 2023.

(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; Laws

2020, LB944, § 20; Laws 2021, LB149, § 6; Laws 2022, LB750, § 18; Laws 2023, LB138, § 13.
Operative date September 2, 2023.

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, 2023.

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; Laws 2020, LB944, § 25; Laws 2021, LB149, § 8; Laws 2022, LB750, § 30; Laws 2023, LB138, § 14.
Operative date September 2, 2023.

ARTICLE 4

MOTOR VEHICLE OPERATORS' LICENSES

(e) GENERAL PROVISIONS

Section

60-462. Act, how cited.

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.

60-484.05. Operators' licenses; state identification cards; temporary; when issued; period valid; special notation; renewal; return of license or card, when.

60-484.06. Operators' licenses; state identification cards; department; power to verify documents.

60-484.07. Operators' licenses; state identification cards; parolee immigration status; effect on application and issuance.

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

60-4,115. Fees; allocation; identity security surcharge; state identification card for voting purposes; no fee, when.

60-4,119. Operators' licenses; state identification cards; digital image and digital signature; issuance; procedure.

60-4,120. Operator's license; state identification card; replacement.

60-4,122. Operator's license; state identification card; renewal procedure; law examination; exceptions; department; powers and duties.

(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.

60-4,138. Commercial drivers' licenses and restricted commercial drivers' licenses; classification.

60-4,142. CLP-commercial learner's permit issuance.

60-4,144. Commercial driver's license; CLP-commercial learner's permit; applications; contents; parolee immigration status; effect;

- Section application; demonstration of knowledge and skills; information and documentation required; verification.
- 60-4,147.02. Hazardous materials endorsement; USA PATRIOT Act requirements.
- 60-4,168. Disqualification; when.
- 60-4,172. Nonresident licensee or permit holder; conviction within state; director; duties.

(j) STATE IDENTIFICATION CARDS

- 60-4,181. State identification cards; issuance; requirements; form; delivery; cancellation.

(e) GENERAL PROVISIONS

60-462 Act, how cited.

Sections 60-462 to 60-4,189 shall be known and may be cited as the Motor Vehicle Operator's License Act.

Source: Laws 1937, c. 141, § 31, p. 523; C.S.Supp.,1941, § 60-434; R.S.1943, § 60-402; R.S.1943, (1988), § 60-402; Laws 1989, LB 284, § 2; Laws 1989, LB 285, § 12; Laws 1990, LB 980, § 6; Laws 1991, LB 44, § 1; Laws 1993, LB 105, § 4; Laws 1993, LB 370, § 65; Laws 1993, LB 420, § 1; Laws 1994, LB 211, § 1; Laws 1995, LB 467, § 6; Laws 1996, LB 323, § 1; Laws 1997, LB 210, § 2; Laws 1997, LB 256, § 4; Laws 1998, LB 320, § 1; Laws 2001, LB 38, § 5; Laws 2001, LB 574, § 1; Laws 2003, LB 209, § 1; Laws 2003, LB 562, § 2; Laws 2005, LB 76, § 2; Laws 2006, LB 853, § 6; Laws 2007, LB415, § 1; Laws 2008, LB911, § 1; Laws 2011, LB158, § 1; Laws 2011, LB178, § 2; Laws 2011, LB215, § 1; Laws 2013, LB93, § 1; Laws 2014, LB983, § 2; Laws 2015, LB231, § 19; Laws 2016, LB311, § 1; Laws 2016, LB977, § 13; Laws 2018, LB629, § 1; Laws 2018, LB909, § 73; Laws 2022, LB750, § 45; Laws 2023, LB138, § 15.
Operative date September 2, 2023.

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, 2023:

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; Laws 2020, LB944, § 51; Laws 2021, LB149, § 9; Laws 2022, LB750, § 46; Laws 2023, LB138, § 16.
Operative date September 2, 2023.

(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, 2023. 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, 2023, 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; Laws 2020, LB944, § 52; Laws 2021, LB149, § 10; Laws 2022, LB750, § 49; Laws 2023, LB138, § 17.
Operative date September 2, 2023.

60-484.05 Operators' licenses; state identification cards; temporary; when issued; period valid; special notation; renewal; return of license or card, when.

(1) The department shall only issue an operator's license or a state identification card that is temporary to any applicant who presents documentation under

sections 60-484, 60-484.04, and 60-484.07 that shows his or her authorized stay in the United States is temporary. An operator's license or a state identification card that is temporary shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.

(2) An operator's license or state identification card that is temporary shall clearly indicate that it is temporary with a special notation on the front of the license or card and shall state the date on which it expires. An operator's license or state identification card issued pursuant to section 60-484.07 shall clearly indicate that it is not acceptable for official federal purposes.

(3) An operator's license or state identification card that is temporary may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the operator's license or state identification card that is temporary has been extended by the United States Department of Homeland Security.

(4) If an individual has an operator's license or a state identification card issued under section 60-484.07 or based on approved lawful status granted under section 202(c)(2)(B)(i) through (x) of the federal REAL ID Act of 2005, Public Law 109-13, and the basis for the approved lawful status is terminated, the individual shall return the operator's license or state identification card to the Department of Motor Vehicles.

Source: Laws 2011, LB215, § 8; Laws 2014, LB983, § 13; Laws 2015, LB623, § 2; Laws 2020, LB944, § 54; Laws 2023, LB138, § 18.
Operative date September 2, 2023.

60-484.06 Operators' licenses; state identification cards; department; power to verify documents.

Before issuing any operator's license or state identification card under the Motor Vehicle Operator's License Act, the department may verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented by a person pursuant to sections 60-484, 60-484.04, 60-484.07, and 60-4,144.

Source: Laws 2011, LB215, § 9; Laws 2014, LB983, § 14; Laws 2023, LB138, § 19.
Operative date September 2, 2023.

60-484.07 Operators' licenses; state identification cards; parolee immigration status; effect on application and issuance.

(1) On a date determined by the director but not later than November 1, 2023, any person assigned a parolee immigration status by the United States Department of Homeland Security may apply for and be issued an operator's license or a state identification card that is not in compliance with the federal REAL ID Act of 2005, Public Law 109-13, if the person:

(a) Possessed an unexpired foreign passport issued to such person at the time of such person's entry into the United States of America; and

(b) Fulfills the requirements of subsection (3) of section 60-484 and such requirements are verified pursuant to section 60-484.06.

(2) Any operator's license or state identification card issued under this section is otherwise subject to all laws relating to operators' licenses and state identification cards.

Source: Laws 2023, LB138, § 20.

Operative date September 2, 2023.

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, 2023, 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; Laws 2020, LB944, § 56; Laws 2021, LB149, § 11; Laws 2022, LB750, § 52; Laws 2023, LB138, § 21.

Operative date September 2, 2023.

(g) PROVISIONS APPLICABLE TO OPERATION OF MOTOR
VEHICLES OTHER THAN COMMERCIAL

60-4,115 Fees; allocation; identity security surcharge; state identification card for voting purposes; no fee, when.

(1) Fees for operators' licenses and state identification cards shall be collected by department personnel or the county treasurer and distributed according to the table in subsection (2) of this section, except for the ignition interlock permit and associated fees as outlined in subsection (4) of this section and the 24/7 sobriety program permit and associated fees as outlined in subsection (5) of this section. County officials shall remit the county portion of the fees collected to the county treasurer for placement in the county general fund. All other fees collected shall be remitted to the State Treasurer for credit to the appropriate fund.

(2) Except as otherwise provided in subsection (7) of this section, the fees provided in this subsection in the following dollar amounts apply for operators' licenses and state identification cards.

Document	Total Fee	County General Fund	Department of Motor Vehicles Cash Fund
State identification card:			
Valid for 1 year or less	5.00	2.75	2.25
Valid for more than 1 year but not more than 2 years	10.00	2.75	7.25
Valid for more than 2 years but not more than 3 years	14.00	2.75	11.25
Valid for more than 3 years but not more than 4 years	19.00	2.75	16.25
Valid for more than 4 years for a person under 21	24.00	2.75	21.25
Valid for 5 years	24.00	3.50	20.50
Replacement	11.00	2.75	8.25
Class O or M operator's license:			
Valid for 1 year or less	5.00	2.75	2.25
Valid for more than 1 year but not more than 2 years	10.00	2.75	7.25
Valid for more than 2 years but not more than 3 years	14.00	2.75	11.25
Valid for more than 3 years but not more than 4 years	19.00	2.75	16.25
Valid for 5 years	24.00	3.50	20.50
Bioptic or telescopic lens restriction:			
Valid for 1 year or less	5.00	0	5.00
Valid for more than 1 year but not more than 2 years	10.00	2.75	7.25
Replacement	11.00	2.75	8.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
Provisional operator's permit:			
Original	15.00	2.75	12.25
Bioptic or telescopic lens restriction:			
Valid for 1 year or less	5.00	0	5.00
Valid for more than 1 year but not more than 2 years	15.00	2.75	12.25
Replacement	11.00	2.75	8.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
LPD-learner's permit:			
Original	8.00	.25	7.75
Replacement	11.00	2.75	8.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
LPE-learner's permit:			
Original	8.00	.25	7.75
Replacement	11.00	2.75	8.25

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Document	Total Fee	County General Fund	Department of Motor Vehicles Cash Fund
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
School permit:			
Original	8.00	.25	7.75
Replacement	11.00	2.75	8.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
Farm permit:			
Original or renewal	5.00	.25	4.75
Replacement	5.00	.25	4.75
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
Driving permits:			
Employment	45.00	0	45.00
Medical hardship	45.00	0	45.00
Replacement	10.00	.25	9.75
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
Commercial driver's license:			
Valid for 1 year or less	11.00	1.75	9.25
Valid for more than 1 year but not more than 2 years	22.00	1.75	20.25
Valid for more than 2 years but not more than 3 years	33.00	1.75	31.25
Valid for more than 3 years but not more than 4 years	44.00	1.75	42.25
Valid for 5 years	55.00	1.75	53.25
Bioptic or telescopic lens restriction:			
Valid for one year or less	11.00	1.75	9.25
Valid for more than 1 year but not more than 2 years	22.00	1.75	20.25
Replacement	11.00	2.75	8.25
Add, change, or remove class, endorsement, or restriction	10.00	1.75	8.25
CLP-commercial learner's permit:			
Original or renewal	10.00	.25	9.75
Replacement	10.00	.25	9.75
Add, change, or remove class, endorsement, or restriction	10.00	.25	9.75
Seasonal permit:			
Original or renewal	10.00	.25	9.75
Replacement	10.00	.25	9.75
Add, change, or remove class, endorsement, or restriction	10.00	.25	9.75

(3) If the department issues an operator's license or a state identification card and collects the fees, the department shall remit the county portion of the fees to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(4)(a) The fee for an ignition interlock permit shall be forty-five dollars. Five dollars of the fee shall be remitted to the State Treasurer for credit to the

Department of Motor Vehicles Cash Fund. Forty dollars of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Ignition Interlock Fund.

(b) The fee for a replacement ignition interlock permit shall be eleven dollars. Two dollars and seventy-five cents of the fee shall be remitted to the county treasurer for credit to the county general fund. Eight dollars and twenty-five cents of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(c) The fee for adding, changing, or removing a class, endorsement, or restriction on an ignition interlock permit shall be five dollars. The fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5)(a) The fee for a 24/7 sobriety program permit shall be forty-five dollars. Forty dollars of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Five dollars of the fee shall be remitted to the county treasurer for credit to the county general fund.

(b) The fee for a replacement 24/7 sobriety program permit shall be eleven dollars. Two dollars and seventy-five cents of the fee shall be remitted to the county treasurer for credit to the county general fund. Eight dollars and twenty-five cents of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(c) The fee for adding, changing, or removing a class, endorsement, or restriction on a 24/7 sobriety program permit shall be five dollars. The fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(6) The department and its agents may collect an identity security surcharge to cover the cost of security and technology practices used to protect the identity of applicants for and holders of operators' licenses and state identification cards and to reduce identity theft, fraud, and forgery and counterfeiting of such licenses and cards to the maximum extent possible. The surcharge shall be in addition to all other required fees for operators' licenses and state identification cards. The amount of the surcharge shall be determined by the department. The surcharge shall not exceed eight dollars. The surcharge shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(7) No fee shall be charged for issuance of an original, renewal, or duplicate state identification card to a resident of Nebraska who (a) does not have a valid Nebraska driver's license, (b) is requesting issuance of such card for voting purposes, and (c) is at least eighteen years of age or is seventeen years of age and will attain the age of eighteen years on or before the first Tuesday after the first Monday in November of the then-current calendar year.

Source: Laws 1929, c. 148, § 7, p. 515; C.S.1929, § 60-407; Laws 1931, c. 101, § 2, p. 272; Laws 1937, c. 148, § 17, p. 515; Laws 1941, c. 128, § 1, p. 483; Laws 1941, c. 176, § 1, p. 687; C.S.Supp.,1941, § 60-407; R.S.1943, § 60-409; Laws 1945, c. 141, § 6, p. 452; Laws 1947, c. 207, § 3, p. 677; Laws 1949, c. 181, § 3, p. 525; Laws 1951, c. 195, § 12, p. 742; Laws 1955, c. 242, § 1, p. 757; Laws 1957, c. 366, § 39, p. 1273; Laws 1961, c. 315, § 7, p. 1004; Laws 1961, c. 316, § 7, p. 1014; Laws 1963, c. 359, § 2, p. 1151; Laws 1967, c. 234, § 3, p. 624; Laws 1976, LB 329, § 2; Laws 1977, LB 90, § 5; Laws 1981, LB 207, § 1; Laws 1985, Second

Spec. Sess., LB 5, § 1; R.S.1943, (1988), § 60-409; Laws 1989, LB 285, § 65; Laws 1992, LB 319, § 4; Laws 1993, LB 491, § 12; Laws 1995, LB 467, § 11; Laws 1998, LB 309, § 5; Laws 1998, LB 320, § 5; Laws 1999, LB 704, § 17; Laws 2001, LB 574, § 11; Laws 2005, LB 1, § 5; Laws 2006, LB 1008, § 2; Laws 2008, LB736, § 4; Laws 2008, LB911, § 12; Laws 2009, LB497, § 3; Laws 2011, LB170, § 2; Laws 2011, LB215, § 13; Laws 2011, LB667, § 28; Laws 2014, LB777, § 4; Laws 2014, LB983, § 17; Laws 2016, LB311, § 10; Laws 2018, LB347, § 1; Laws 2021, LB113, § 27; Laws 2021, LB271, § 10; Laws 2022, LB750, § 53; Laws 2023, LB138, § 22; Laws 2023, LB514, § 20.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB138, section 22, with LB514, section 20, to reflect all amendments.

Note: Changes made by LB138 became operative July 1, 2023. Changes made by LB514 became operative June 2, 2023.

60-4,119 Operators' licenses; state identification cards; digital image and digital signature; issuance; procedure.

(1) All state identification cards and operators' licenses, except farm permits, shall include a digital image and a digital signature of the cardholder or licensee as provided in section 60-484.02. Receipts for state identification cards and operators' licenses shall include a digital image of the cardholder or licensee and shall be issued by the county treasurer or the Department of Motor Vehicles. The director shall negotiate and enter into a contract to provide the necessary equipment, supplies, and forms for the issuance of the licenses and cards. All costs incurred by the Department of Motor Vehicles under this section shall be paid by the state out of appropriations made to the department. All costs of capturing the digital images and digital signatures shall be paid by the issuer from the fees provided to the issuer pursuant to section 60-4,115.

(2) A person who is out of the state at the time of renewal of his or her operator's license may apply for a license upon payment of a fee as provided in section 60-4,115. The license may be issued at any time within one year after the expiration of the original license. Such application shall be made to the department, and the department shall issue the license.

(3) Any operator's license and any state identification card issued to a minor as defined in section 53-103.23, as such definition may be amended from time to time by the Legislature, shall be of a distinct designation, of a type prescribed by the director, from the operator's license or state identification card of a person who is not a minor.

Source: Laws 1977, LB 90, § 1; Laws 1978, LB 574, § 3; Laws 1981, LB 46, § 1; Laws 1982, LB 877, § 1; Laws 1984, LB 811, § 3; Laws 1986, LB 575, § 1; Laws 1989, LB 284, § 4; R.S.1943, (1988), § 60-406.04; Laws 1989, LB 285, § 69; Laws 1990, LB 980, § 9; Laws 1993, LB 201, § 1; Laws 1995, LB 467, § 13; Laws 1999, LB 704, § 19; Laws 2001, LB 574, § 13; Laws 2005, LB 1, § 6; Laws 2010, LB861, § 80; Laws 2014, LB777, § 6; Laws 2023, LB514, § 21.

Operative date June 2, 2023.

60-4,120 Operator's license; state identification card; replacement.

(1) Any person duly licensed or holding a valid state identification card issued under the Motor Vehicle Operator's License Act who loses his or her operator's

license or card may make application to the department for a replacement license or card.

(2) If any person changes his or her name because of marriage or divorce or by court order or a common-law name change, he or she shall apply to the department for a replacement operator's license or state identification card and furnish proof of identification in accordance with section 60-484. If any person changes his or her address, the person shall apply to the department for a replacement operator's license or state identification card and furnish satisfactory evidence of such change. The application shall be made within sixty days after the change of name or address.

(3) In the event a mutilated or unreadable operator's license is held by any person duly licensed under the act or a mutilated or unreadable state identification card which was issued under the act is held by a person, such person may obtain a replacement license or card. Upon report of the mutilated or unreadable license or card and application for a replacement license or card, a replacement license or card may be issued if the department is satisfied that the original license or card is mutilated or unreadable.

(4) If any person duly licensed under the act loses his or her operator's license or if any holder of a state identification card loses his or her card while temporarily out of the state, he or she may make application to the department for a replacement operator's license or card by applying to the department and reporting such loss. Upon receipt of a correctly completed application, the department shall cause to be issued a replacement operator's license or card.

(5) Any person who holds a valid operator's license or state identification card without a digital image shall surrender such license or card to the department within thirty days after resuming residency in this state. After the thirty-day period, such license or card shall be considered invalid and no license or card shall be issued until the individual has made application for replacement or renewal.

(6) Application for a replacement operator's license or state identification card shall include the information required under sections 60-484, 60-484.04, and 60-484.07.

(7) An applicant may obtain a replacement operator's license or state identification card pursuant to subsection (1) or (3) of this section by electronic means in a manner prescribed by the department. No replacement license or card shall be issued unless the applicant has a digital image and digital signature preserved in the digital system.

(8) Each replacement operator's license or state identification card shall be issued with the same expiration date as the license or card for which the replacement is issued. The replacement license or card shall also state the new issuance date. Upon issuance of any replacement license or card, the license or card for which the replacement is issued shall be void.

(9) A replacement operator's license or state identification card issued under this section shall be delivered to the applicant as provided in section 60-4,113 after the county treasurer or department collects the fee and surcharge prescribed in section 60-4,115 and issues the applicant a receipt with driving

privileges which is valid for up to thirty days. The receipt shall contain the digital image of the applicant.

Source: Laws 1929, c. 148, § 9, p. 517; C.S.1929, § 60-409; Laws 1937, c. 141, § 19, p. 517; Laws 1941, c. 176, § 2, p. 689; C.S.Supp.,1941, § 60-409; R.S.1943, § 60-415; Laws 1945, c. 141, § 8, p. 453; Laws 1947, c. 207, § 4, p. 678; Laws 1961, c. 315, § 10, p. 1005; Laws 1961, c. 316, § 10, p. 1015; Laws 1967, c. 234, § 7, p. 626; Laws 1969, c. 506, § 2, p. 2083; Laws 1971, LB 134, § 1; Laws 1971, LB 371, § 1; Laws 1972, LB 1296, § 2; Laws 1977, LB 90, § 6; Laws 1978, LB 606, § 1; Laws 1981, LB 46, § 3; Laws 1984, LB 811, § 6; Laws 1986, LB 575, § 2; Laws 1989, LB 284, § 9; R.S.1943, (1988), § 60-415; Laws 1989, LB 285, § 70; Laws 1993, LB 126, § 1; Laws 1993, LB 201, § 2; Laws 1994, LB 76, § 572; Laws 1998, LB 309, § 7; Laws 2001, LB 574, § 14; Laws 2005, LB 1, § 7; Laws 2011, LB215, § 15; Laws 2012, LB751, § 26; Laws 2014, LB777, § 7; Laws 2023, LB138, § 23; Laws 2023, LB514, § 22.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB138, section 23, with LB514, section 22, to reflect all amendments.

Note: Changes made by LB138 became operative September 2, 2023. Changes made by LB514 became operative June 2, 2023.

60-4,122 Operator's license; state identification card; renewal procedure; law examination; exceptions; department; powers and duties.

(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 sections 60-484.04 and 60-484.07.

(6)(a) If a nonresident who applies for an initial operator's license in this state presents a physical or mobile valid operator's license from the individual's state of residence, the department may choose not to require such individual to demonstrate knowledge of the motor vehicle laws of this state.

(b) A physical operator's license described in subdivision (a) of this subsection shall be surrendered to the department.

(c) Upon issuing an initial operator's license described in subdivision (a) of this subsection, the department shall notify the state that issued the valid operator's license described in subdivision (a) of this subsection to invalidate such 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; Laws 2022, LB750, § 54; Laws 2023, LB138, § 24.
Operative date September 2, 2023.

(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, 49 U.S.C. 101 et seq., 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, 2023, and to reduce or prevent commercial motor vehicle accidents, fatalities, 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; Laws 2020, LB944, § 59; Laws 2021, LB149, § 12; Laws 2022, LB750, § 58; Laws 2023, LB138, § 25.
Operative date September 2, 2023.

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, 2023, 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; Laws 2020, LB944, § 60; Laws 2021, LB149, § 13; Laws 2022, LB750, § 59; Laws 2023, LB138, § 26.

Operative date September 2, 2023.

60-4,138 Commercial drivers' licenses and restricted commercial drivers' licenses; classification.

(1) Commercial drivers' licenses and restricted commercial drivers' licenses shall be issued by the department in compliance with 49 C.F.R. parts 380, 382, 383, 384, 391, and 392, shall be classified as provided in subsection (2) of this section, and shall bear such endorsements and restrictions as are provided in subsections (3) and (4) of this section.

(2) Commercial motor vehicle classifications for purposes of commercial drivers' licenses shall be as follows:

(a) Class A Combination Vehicle — Any combination of motor vehicles and towed vehicles with a gross vehicle weight rating of more than twenty-six thousand pounds if the gross vehicle weight rating of the vehicles being towed are in excess of ten thousand pounds;

(b) Class B Heavy Straight Vehicle — Any single commercial motor vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more or any such commercial motor vehicle towing a vehicle with a gross vehicle weight rating not exceeding ten thousand pounds; and

(c) Class C Small Vehicle — Any single commercial motor vehicle with a gross vehicle weight rating of less than twenty-six thousand one pounds or any such commercial motor vehicle towing a vehicle with a gross vehicle weight rating not exceeding ten thousand pounds comprising:

(i) Motor vehicles designed to transport sixteen or more passengers, including the driver; and

(ii) Motor vehicles used in the transportation of hazardous materials and required to be placarded pursuant to section 75-364.

(3) The endorsements to a commercial driver's license shall be as follows:

(a) T — Double/triple trailers;

(b) P — Passenger;

(c) N — Tank vehicle;

(d) H — Hazardous materials;

(e) X — Combination tank vehicle and hazardous materials; and

(f) S — School bus.

(4) The restrictions to a commercial driver's license shall be as follows:

(a) E — No manual transmission equipped commercial motor vehicle;

(b) K — Operation of a commercial motor vehicle only in intrastate commerce;

(c) L — Operation of only a commercial motor vehicle which is not equipped with air brakes;

- (d) M — Operation of a commercial motor vehicle which is not a Class A passenger vehicle;
- (e) N — Operation of a commercial motor vehicle which is not a Class A or Class B passenger vehicle;
- (f) O — No tractor-trailer commercial motor vehicle;
- (g) V — Operation of a commercial motor vehicle for drivers with medical variance documentation. The documentation shall be required to be carried on the driver's person while operating a commercial motor vehicle; and
- (h) Z — No full air brake equipped commercial motor vehicle.

Source: Laws 1989, LB 285, § 88; Laws 1990, LB 980, § 14; Laws 1993, LB 420, § 8; Laws 1996, LB 938, § 1; Laws 2003, LB 562, § 10; Laws 2006, LB 1007, § 6; Laws 2011, LB178, § 9; Laws 2014, LB983, § 24; Laws 2020, LB944, § 61; Laws 2022, LB750, § 60; Laws 2023, LB138, § 27.
Operative date September 2, 2023.

60-4,142 CLP-commercial learner's permit issuance.

Any resident or nondomiciled applicant may obtain a CLP-commercial learner's permit from the department by making application to licensing staff of the department. An applicant shall present proof to licensing staff that he or she holds a valid Class O license or commercial driver's license or a foreign nondomiciled applicant shall successfully complete the requirements for the Class O license before a CLP-commercial learner's permit is issued. An applicant shall also successfully complete the commercial driver's license general knowledge examination under section 60-4,155 and examinations for all previously issued endorsements as provided in 49 C.F.R. 383.25(a)(3) and 49 C.F.R. 383.153(b)(2)(vii). Upon application, the examination may be waived if the applicant presents (1) a Nebraska commercial driver's license which is valid or has been expired for less than one year or (2) a valid commercial driver's license from another state. The CLP-commercial learner's permit shall be valid for one year from the date of issuance. The successful applicant shall pay the fee prescribed in section 60-4,115 for the issuance or renewal of a CLP-commercial learner's permit.

Source: Laws 1989, LB 285, § 92; Laws 1990, LB 980, § 17; Laws 1998, LB 320, § 17; Laws 2001, LB 108, § 3; Laws 2001, LB 574, § 23; Laws 2003, LB 562, § 13; Laws 2006, LB 853, § 11; Laws 2012, LB751, § 32; Laws 2014, LB983, § 27; Laws 2016, LB311, § 17; Laws 2023, LB138, § 28.
Operative date September 2, 2023.

60-4,144 Commercial driver's license; CLP-commercial learner's permit; applications; contents; parolee immigration status; effect; 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 federal 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.

(f)(i) On a date determined by the director but not later than November 1, 2023, any person assigned a parolee immigration status by the United States Department of Homeland Security may apply for and be issued a CLP-commercial learner's permit or commercial driver's license that is not in compliance with the federal REAL ID Act of 2005, Public Law 109-13, if the person:

(A) Possessed an unexpired foreign passport issued to such person at the time of such person's entry into the United States of America; and

(B) Fulfills the requirements of subdivision (2)(a) of this section and such requirements are verified pursuant to section 60-484.06.

(ii) Any CLP-commercial learner's permit or commercial driver's license issued under this subsection is otherwise subject to all laws relating to CLP-commercial learner's permits or commercial driver's licenses.

(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 commercial 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; Laws 2023, LB138, § 29.

Operative date September 2, 2023.

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.

60-4,147.02 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, 2023, 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; Laws 2020, LB944, § 63; Laws 2021, LB149, § 14; Laws 2022, LB750, § 62; Laws 2023, LB138, § 30.
Operative date September 2, 2023.

60-4,168 Disqualification; when.

(1) Except as provided in subsections (2) and (3) of this section, a person shall be disqualified from operating a commercial motor vehicle for one year upon his or her first conviction, after April 1, 1992, in this or any other state for:

(a) Operating a commercial motor vehicle in violation of section 60-6,196 or 60-6,197 or under the influence of a controlled substance or, beginning September 30, 2005, operating any motor vehicle in violation of section 60-6,196 or 60-6,197 or under the influence of a controlled substance;

(b) Operating a commercial motor vehicle in violation of section 60-4,163 or 60-4,164;

(c) Leaving the scene of an accident involving a commercial motor vehicle operated by the person or, beginning September 30, 2005, leaving the scene of an accident involving any motor vehicle operated by the person;

(d) Using a commercial motor vehicle in the commission of a felony other than a felony described in subdivision (3)(b) of this section or, beginning September 30, 2005, using any motor vehicle in the commission of a felony other than a felony described in subdivision (3)(b) of this section;

(e) Beginning September 30, 2005, operating a commercial motor vehicle after his or her commercial driver's license has been suspended, revoked, or canceled or the driver is disqualified from operating a commercial motor vehicle; or

(f) Beginning September 30, 2005, causing a fatality through the negligent or criminal operation of a commercial motor vehicle.

(2) Except as provided in subsection (3) of this section, if any of the offenses described in subsection (1) of this section occurred while a person was transporting hazardous material in a commercial motor vehicle which required placarding pursuant to section 75-364, the person shall, upon conviction or

administrative determination, be disqualified from operating a commercial motor vehicle for three years.

(3) A person shall be disqualified from operating a commercial motor vehicle for life if, after April 1, 1992, he or she:

(a) Is convicted of or administratively determined to have committed a second or subsequent violation of any of the offenses described in subsection (1) of this section or any combination of those offenses arising from two or more separate incidents;

(b) Beginning September 30, 2005, used a motor vehicle in the commission of a felony involving the manufacturing, distributing, or dispensing of a controlled substance; or

(c) Used a commercial motor vehicle in the commission of a felony involving an act or practice of severe forms of trafficking in persons, as defined and described in 22 U.S.C. 7102(11), as such section existed on January 1, 2023.

(4)(a) A person is disqualified from operating a commercial motor vehicle for a period of not less than sixty days if he or she is convicted in this or any other state of two serious traffic violations, or not less than one hundred twenty days if he or she is convicted in this or any other state of three serious traffic violations, arising from separate incidents occurring within a three-year period while operating a commercial motor vehicle.

(b) A person is disqualified from operating a commercial motor vehicle for a period of not less than sixty days if he or she is convicted in this or any other state of two serious traffic violations, or not less than one hundred twenty days if he or she is convicted in this or any other state of three serious traffic violations, arising from separate incidents occurring within a three-year period while operating a motor vehicle other than a commercial motor vehicle if the convictions have resulted in the revocation, cancellation, or suspension of the person's operator's license or driving privileges.

(5)(a) A person who is convicted of operating a commercial motor vehicle in violation of a federal, state, or local law or regulation pertaining to one of the following six offenses at a highway-rail grade crossing shall be disqualified for the period of time specified in subdivision (5)(b) of this section:

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing; or

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(b)(i) A person shall be disqualified for not less than sixty days if the person is convicted of a first violation described in this subsection.

(ii) A person shall be disqualified for not less than one hundred twenty days if, during any three-year period, the person is convicted of a second violation described in this subsection in separate incidents.

(iii) A person shall be disqualified for not less than one year if, during any three-year period, the person is convicted of a third or subsequent violation described in this subsection in separate incidents.

(6) A person shall be disqualified from operating a commercial motor vehicle for at least one year if, on or after July 8, 2015, the person has been convicted of fraud related to the issuance of his or her CLP-commercial learner's permit or commercial driver's license.

(7) If the department receives credible information that a CLP-commercial learner's permit holder or a commercial driver's license holder is suspected, but has not been convicted, on or after July 8, 2015, of fraud related to the issuance of his or her CLP-commercial learner's permit or commercial driver's license, the department must require the driver to retake the skills and knowledge tests. Within thirty days after receiving notification from the department that retesting is necessary, the affected CLP-commercial learner's permit holder or commercial driver's license holder must make an appointment or otherwise schedule to take the next available test. If the CLP-commercial learner's permit holder or commercial driver's license holder fails to make an appointment within thirty days, the department must disqualify his or her CLP-commercial learner's permit or commercial driver's license. If the driver fails either the knowledge or skills test or does not take the test, the department must disqualify his or her CLP-commercial learner's permit or commercial driver's license. If the holder of a CLP-commercial learner's permit or commercial driver's license has had his or her CLP-commercial learner's permit or commercial driver's license disqualified, he or she must reapply for a CLP-commercial learner's permit or commercial driver's license under department procedures applicable to all applicants for a CLP-commercial learner's permit or commercial driver's license.

(8) For purposes of this section, controlled substance has the same meaning as in section 28-401.

(9) For purposes of this section, conviction means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law, in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court costs, or a violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(10) For purposes of this section, serious traffic violation means:

(a) Speeding at or in excess of fifteen miles per hour over the legally posted speed limit;

(b) Willful reckless driving as described in section 60-6,214 or reckless driving as described in section 60-6,213;

(c) Improper lane change as described in section 60-6,139;

(d) Following the vehicle ahead too closely as described in section 60-6,140;

(e) A violation of any law or ordinance related to motor vehicle traffic control, other than parking violations or overweight or vehicle defect violations,

arising in connection with an accident or collision resulting in death to any person;

(f) Beginning September 30, 2005, operating a commercial motor vehicle without a commercial driver's license;

(g) Beginning September 30, 2005, operating a commercial motor vehicle without a commercial driver's license in the operator's possession;

(h) Beginning September 30, 2005, operating a commercial motor vehicle without the proper class of commercial driver's license and any endorsements, if required, for the specific vehicle group being operated or for the passengers or type of cargo being transported on the vehicle;

(i) Beginning October 27, 2013, texting while driving as described in section 60-6,179.02; and

(j) Using a handheld mobile telephone as described in section 60-6,179.02.

(11) Each period of disqualification imposed under this section shall be served consecutively and separately.

Source: Laws 1989, LB 285, § 118; Laws 1990, LB 980, § 24; Laws 1993, LB 191, § 6; Laws 1993, LB 370, § 93; Laws 1996, LB 323, § 11; Laws 2001, LB 773, § 13; Laws 2002, LB 499, § 3; Laws 2003, LB 562, § 16; Laws 2005, LB 76, § 15; Laws 2012, LB751, § 38; Laws 2014, LB983, § 49; Laws 2016, LB311, § 21; Laws 2016, LB666, § 8; Laws 2017, LB263, § 68; Laws 2020, LB944, § 64; Laws 2021, LB149, § 15; Laws 2022, LB750, § 64; Laws 2023, LB138, § 31.

Operative date September 2, 2023.

60-4,172 Nonresident licensee or permit holder; conviction within state; director; duties.

(1) Within ten days after a conviction of any nonresident who holds a commercial learner's permit or commercial driver's license for any violation of state law or local ordinance related to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle operated in this state, the director shall notify the driver licensing authority which licensed the nonresident who holds a commercial learner's permit or commercial driver's license and the Commercial Driver License Information System of such conviction.

(2)(a) Within ten days after disqualifying a nonresident who holds a commercial learner's permit or commercial driver's license or canceling, revoking, or suspending the commercial learner's permit or commercial driver's license held by a nonresident, for a period of at least sixty days, the department shall notify the driver licensing authority which licensed the nonresident and the Commercial Driver License Information System of such action.

(b) The notification shall include both the disqualification and the violation that resulted in the disqualification, cancellation, revocation, or suspension. The notification and the information it provides shall be recorded on the driver's record.

(3) Within ten days after a conviction of any nonresident who holds a commercial learner's permit or commercial driver's license for any violation of state law or local ordinance related to motor vehicle traffic control, other than parking violations, committed in any type of motor vehicle operated in this

state, the director shall notify the driver licensing authority which licensed the nonresident and the Commercial Driver License Information System of such conviction.

(4) Within ten days after a conviction of any nonresident who holds a driver's license for any violation of state law or local ordinance related to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle operated in this state, the director shall notify the driver licensing authority which licensed the nonresident.

Source: Laws 1989, LB 285, § 122; Laws 2003, LB 562, § 19; Laws 2014, LB983, § 53; Laws 2023, LB138, § 32.
Operative date September 2, 2023.

(j) STATE IDENTIFICATION CARDS

60-4,181 State identification cards; issuance; requirements; form; delivery; cancellation.

(1) Each applicant for a state identification card shall provide the information and documentation required by sections 60-484, 60-484.04, and 60-484.07. The form of the state identification card shall comply with section 60-4,117. The applicant shall present an issuance certificate to the county treasurer for a state identification card. Department personnel or the county treasurer shall collect the fee and surcharge as prescribed in section 60-4,115 and issue a receipt to the applicant which is valid up to thirty days. The state identification card shall be delivered to the applicant as provided in section 60-4,113.

(2) The director may summarily cancel any state identification card, and any judge or magistrate may order a state identification card canceled in a judgment of conviction, if the application or information presented by the applicant contains any false or fraudulent statements which were deliberately and knowingly made as to any matter material to the issuance of the card or if the application or information presented by the applicant does not contain required or correct information. Any state identification card so obtained shall be void from the date of issuance. Any judgment of conviction ordering cancellation of a state identification card shall be transmitted to the director who shall cancel the card.

(3) No person shall be a holder of a state identification card and an operator's license at the same time.

Source: Laws 1989, LB 284, § 6; Laws 1989, LB 285, § 130; Laws 1992, LB 1178, § 6; Laws 1993, LB 491, § 15; Laws 1994, LB 76, § 576; Laws 1995, LB 467, § 14; Laws 1996, LB 1073, § 2; Laws 1997, LB 21, § 1; Laws 1997, LB 635, § 22; Laws 1998, LB 309, § 11; Laws 1999, LB 147, § 4; Laws 1999, LB 704, § 41; Laws 2000, LB 1317, § 9; Laws 2001, LB 34, § 7; Laws 2001, LB 574, § 29; Laws 2003, LB 228, § 14; Laws 2004, LB 559, § 5; Laws 2008, LB911, § 26; Laws 2011, LB215, § 23; Laws 2016, LB311, § 22; Laws 2016, LB666, § 9; Laws 2023, LB138, § 33.
Operative date September 2, 2023.

ARTICLE 5

MOTOR VEHICLE SAFETY RESPONSIBILITY

(a) DEFINITIONS

Section
60-501. Terms, defined.

(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, 2023, 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; Laws 2020, LB944, § 66; Laws 2021, LB149, § 16; Laws 2022, LB750, § 68; Laws 2023, LB138, § 34.
Operative date September 2, 2023.

ARTICLE 6

NEBRASKA RULES OF THE ROAD

(a) GENERAL PROVISIONS

Section	
60-601.	Rules, how cited.
60-605.	Definitions, where found.
60-611.	Bicycle, defined.
60-614.02.	Class I electric bicycle, defined.
60-614.03.	Class II electric bicycle, defined.
60-614.04.	Class III electric bicycle, defined.
60-618.03.	Electric bicycle, defined.
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60-640.	Motor-driven cycle, defined.
	(b) POWERS OF STATE AND LOCAL AUTHORITIES
60-678.	Regulations; violations; penalty.
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60-6,265.	Occupant protection system and three-point safety belt system, defined.
	(w) HELMETS AND EYE PROTECTION
60-6,279.	Protective helmets; eye protection; required; when.
60-6,282.	Violation; penalty; enforcement.

(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; Laws 2023, LB138, § 35.

Operative date September 2, 2023.

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; Laws 2023, LB138, § 36.
Operative date September 2, 2023.

60-611 Bicycle, defined.

Bicycle shall mean:

(1) Every device propelled solely by human power, upon which any person may ride, and having two, three, or four wheels any one or more of which being more than fourteen inches in diameter; and

(2) An electric bicycle.

Source: Laws 1993, LB 370, § 107; Laws 2015, LB95, § 10; Laws 2023, LB138, § 37.

Operative date September 2, 2023.

60-614.02 Class I electric bicycle, defined.

Class I electric bicycle means a device with the following components:

(1) Two, three, or four wheels;

(2) A saddle or seat for the rider;

(3) Fully operative pedals for propulsion by human power; and

(4) An electric motor:

(a) Not exceeding seven hundred fifty watts of power;

(b) That produces no more than one brake horsepower;

(c) Capable of propelling the bicycle at a maximum design speed of no more than twenty miles per hour on level ground;

(d) That only provides power when the rider is pedaling; and

(e) That does not provide power if the electric bicycle is traveling at a speed of more than twenty miles per hour.

Source: Laws 2023, LB138, § 38.

Operative date September 2, 2023.

60-614.03 Class II electric bicycle, defined.

Class II electric bicycle means a device with the following components:

- (1) Two, three, or four wheels;
- (2) A saddle or seat for the rider;
- (3) Fully operative pedals for propulsion by human power; and
- (4) An electric motor:
 - (a) Not exceeding seven hundred fifty watts of power;
 - (b) That produces no more than one brake horsepower;
 - (c) Capable of propelling the bicycle at a maximum design speed of no more than twenty miles per hour on level ground;
 - (d) Capable of providing power whether or not the rider is pedaling; and
 - (e) That does not provide power if the electric bicycle is traveling at a speed of more than twenty miles per hour.

Source: Laws 2023, LB138, § 39.

Operative date September 2, 2023.

60-614.04 Class III electric bicycle, defined.

Class III electric bicycle means a device with the following components:

- (1) Two, three, or four wheels;
- (2) A saddle or seat for the rider;
- (3) Fully operative pedals for propulsion by human power; and
- (4) An electric motor:
 - (a) Not exceeding seven hundred fifty watts of power;
 - (b) That produces no more than one brake horsepower;
 - (c) Capable of propelling the bicycle at a maximum design speed of no more than twenty-eight miles per hour on level ground;
 - (d) That only provides power when the rider is pedaling; and
 - (e) That does not provide power if the electric bicycle is traveling at a speed of more than twenty-eight miles per hour.

Source: Laws 2023, LB138, § 40.

Operative date September 2, 2023.

60-618.03 Electric bicycle, defined.

Electric bicycle means a Class I electric bicycle, a Class II electric bicycle, and a Class III electric bicycle.

Source: Laws 2023, LB138, § 41.

Operative date September 2, 2023.

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, 2023, 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; Laws 2020, LB944, § 67; Laws 2021, LB149, § 17; Laws 2022, LB750, § 69; Laws 2023, LB138, § 42.
Operative date September 2, 2023.

60-640 Motor-driven cycle, defined.

(1) Motor-driven cycle means every motorcycle, including every motor scooter, with a motor which produces not to exceed five brake horsepower as measured at the drive shaft, mopeds, and every bicycle with a motor attached except for an electric bicycle. Motor-driven cycle shall not include an electric personal assistive mobility device.

(2) For purposes of this section, motorcycle does not include an auticycle.

Source: Laws 1993, LB 370, § 136; Laws 2002, LB 1105, § 453; Laws 2015, LB95, § 13; Laws 2018, LB909, § 97; Laws 2023, LB138, § 43.
Operative date September 2, 2023.

(b) POWERS OF STATE AND LOCAL AUTHORITIES

60-678 Regulations; violations; penalty.

(1) The State of Nebraska or any department, board, commission, or governmental subdivision thereof is hereby authorized, in its respective jurisdiction, to enact regulations permitting, prohibiting, and controlling the use of motor vehicles, minibikes, motorcycles, off-road recreation vehicles of any and all types, electric bicycles, other powered vehicles, electric personal assistive mobility devices, and vehicles which are not self-propelled. Any person who operates any of such vehicles without the permission of the appropriate governmental entity or in a place, time, or manner which has been prohibited by such entity shall be guilty of a Class III misdemeanor.

(2) Such governmental entity described in subsection (1) of this section may further authorize the supervising official of any area under its ownership or control to permit, control, or prohibit operation of any motor vehicle, minibike, motorcycle, off-road recreational vehicle of any or all types, electric bicycles, other powered vehicle, electric personal assistive mobility device, or vehicle which is not self-propelled on all or any portion of any area under its ownership or control at any time by posting or, in case of an emergency, by personal notice. Any person operating any such vehicle where prohibited, where not permitted, or in a manner so as to endanger the peace and safety of the public or as to harm or destroy the natural features or manmade features of any such area shall be guilty of a Class III misdemeanor.

Source: Laws 1971, LB 644, § 11; Laws 1977, LB 39, § 102; R.S.1943, (1988), § 60-2106; Laws 1993, LB 370, § 174; Laws 2002, LB 1105, § 454; Laws 2023, LB138, § 44.
Operative date September 2, 2023.

(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, 2023, 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; Laws 2020, LB944, § 68; Laws 2021, LB149, § 18; Laws 2022, LB750, § 71; Laws 2023, LB138, § 45.

Operative date September 2, 2023.

(w) HELMETS AND EYE PROTECTION

60-6,279 Protective helmets; eye protection; required; when.

(1) A person shall not operate or be a passenger on a motorcycle or moped on any highway in this state unless such person is:

(a) Wearing a protective helmet of the type and design manufactured for use by operators of such vehicles and unless such helmet is secured properly on the user's head with a chin strap while the vehicle is in motion. All such protective helmets shall be designed to reduce injuries to the user resulting from head impacts and shall be designed to protect the user by remaining on the user's head, deflecting blows, resisting penetration, and spreading the force of impact. Each such helmet shall consist of lining, padding, and chin strap and shall meet or exceed the standards established in the United States Department of Transportation's Federal Motor Vehicle Safety Standard No. 218, 49 C.F.R. 571.218, for motorcycle helmets; or

(b) Beginning January 1, 2024:

(i) At least twenty-one years of age; and

(ii)(A) For a resident of Nebraska, has completed the basic motorcycle safety course as provided in the Motorcycle Safety Education Act and submitted proof of such completion to the Department of Motor Vehicles. Proof of such completion shall be in a manner approved by the department; or

(B) For a nonresident of Nebraska, has completed an equivalent to the Motorcycle Safety Foundation basic motorcycle rider course or some other substantially similar motorcycle rider course approved by the state of the

person’s residence and provides proof of such completion to a law enforcement officer upon request.

(2) The Department of Motor Vehicles shall modify the existing system of the department by January 1, 2024, to allow the date of completion of such course to be recorded on the person’s record provided for in section 60-483.

(3) A person shall not operate a motorcycle or moped on any highway in this state unless such person employs one of the following forms of eye protection: (a) Glasses that cover the orbital region of the person’s face, (b) a protective face shield attached to a protective helmet, (c) goggles, or (d) a windshield on the motorcycle or moped that protects the operator’s and passenger’s horizontal line of vision in all operating positions.

Source: Laws 1988, LB 428, § 2; R.S.1943, (1988), § 39-6,211; Laws 1993, LB 370, § 375; Laws 2018, LB909, § 105; Laws 2023, LB138, § 46.

Operative date September 2, 2023.

Cross References

Motorcycle Safety Education Act, see section 60-2120.

60-6,282 Violation; penalty; enforcement.

(1) Until December 31, 2023, a person who violates section 60-6,279 shall be guilty of a traffic infraction and shall be fined fifty dollars.

(2) Beginning January 1, 2024:

(a) A person violating any provision of subsection (1) or (3) of section 60-6,279 shall be guilty of an infraction as defined in section 29-431 and shall be fined two hundred fifty dollars for each violation.

(b) Enforcement of subsection (1) or (3) of section 60-6,279 shall be accomplished only as a secondary action when an operator of a motorcycle or moped has been cited or charged with a violation or some other offense unless the violation involves a person under the age of eighteen years riding on any portion of the motorcycle or moped not designed or intended for the use of passengers when the motorcycle or moped is in motion.

Source: Laws 1988, LB 428, § 5; R.S.1943, (1988), § 39-6,214; Laws 1993, LB 370, § 378; Laws 2023, LB138, § 47.

Operative date September 2, 2023.

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, 2023.

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 re-

UNIFORM MOTOR VEHICLE RECORDS DISCLOSURE ACT § 60-2909.01

placement 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; Laws 2020, LB944, § 73; Laws 2021, LB149, § 19; Laws 2022, LB750, § 73; Laws 2023, LB138, § 48.
Operative date September 2, 2023.

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, 2023, 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, 2023.

Source: Laws 2000, LB 1317, § 14; Laws 2011, LB178, § 20; Laws 2014, LB983, § 59; Laws 2019, LB79, § 21; Laws 2020, LB944, § 74; Laws 2021, LB149, § 20; Laws 2022, LB750, § 74; Laws 2023, LB138, § 49.
Operative date September 2, 2023.

CHAPTER 61

NATURAL RESOURCES

Article.

2. Department of Natural Resources. 61-218, 61-224.
3. Perkins County Canal Project. 61-305.
5. Public Water and Natural Resources Project Contracting Act. 61-501 to 61-520.

ARTICLE 2

DEPARTMENT OF NATURAL RESOURCES

Section

- 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.
- 61-224. Critical Infrastructure Facilities Cash Fund; created; use; investment.

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.

(9) Any funds transferred from the Nebraska Environmental Trust Fund to the Water Resources Cash Fund shall be expended in accordance with section 81-15,168.

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; Laws 2023, LB818, § 12.
Effective date May 25, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska Environmental Trust Fund, see section 81-15,174.

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

61-224 Critical Infrastructure Facilities Cash Fund; created; use; investment.

There is hereby created the Critical Infrastructure Facilities Cash Fund in the Department of Natural Resources. The fund shall consist of funds appropriated or transferred by the Legislature. The fund shall be used by the Department of Natural Resources (1) to provide a grant to a natural resources district to offset costs related to soil and water improvements intended to protect critical infrastructure facilities within the district which includes military installations, transportation routes, and wastewater treatment facilities, (2) to provide a grant to an irrigation district for reimbursement of costs related to temporary repairs to the main canal and tunnels of an interstate irrigation system which experienced a failure, and (3) to provide a grant to an entity within a county

with a population exceeding one hundred thousand inhabitants formed pursuant to the Interlocal Cooperation Act for the purpose of funding a portion of the cost of a wastewater system. Any funds remaining after all such project costs have been completely funded shall be transferred to the General Fund. Transfers may be made from the Critical Infrastructure Facilities Cash Fund to the General Fund at the direction of the Legislature. Any money in the Critical Infrastructure Facilities 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, and any interest earned by the fund shall be credited to the General Fund.

Source: Laws 2016, LB957, § 21; Laws 2018, LB945, § 16; Laws 2020, LB1009, § 5; Laws 2023, LB818, § 13.
Effective date May 25, 2023.

Cross References

Interlocal Cooperation Act, see section 13-801.

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 3

PERKINS COUNTY CANAL PROJECT

Section

61-305. Perkins County Canal Project Fund; created; use; investment; study; required.

61-305 Perkins County Canal Project Fund; created; use; investment; study; required.

(1) The Perkins County Canal Project Fund is created. The fund shall be administered by the Department of Natural Resources. The State Treasurer shall credit to the fund any money transferred by the Legislature and such grants, loans, donations, gifts, bequests, or other money received from any federal or state agency or public or private source for use by the department for the canal project. Any fees collected for water delivery may be credited to the fund. Any money in the Perkins County Canal Project 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. Any investment earnings from investment of money in the Perkins County Canal Project Fund shall be credited to such fund, except that for fiscal years 2023-24, 2024-25, and 2025-26, such investment earnings shall be credited to the Economic Recovery Contingency Fund.

(2)(a) The department shall use the Perkins County Canal Project Fund to identify the optimal route and purchase land for and develop, construct, manage, and operate the Perkins County Canal as outlined by the South Platte River Compact and to contract with an independent firm for the purposes of completing a study of such canal. The study shall include, but may not be limited to, the following:

(i) Costs of completion of a canal and adjoining reservoirs as outlined in the South Platte River Compact;

(ii) A timeline for completion of a canal and adjoining reservoirs as outlined in the South Platte River Compact;

PUBLIC WATER AND NATURAL RESOURCES PROJECT CONTRACTING § 61-501

(iii) A cost-effectiveness study examining alternatives, including alternatives that may reduce environmental or financial impacts; and

(iv) The impacts of the canal on drinking water supplies for the cities of Lincoln and Omaha.

(b) The department shall provide the findings of such study electronically to the Clerk of the Legislature and present the findings at a public hearing held by the Appropriations Committee of the Legislature on or before December 31, 2022.

Source: Laws 2022, LB1012, § 4; Laws 2023, LB531, § 25; Laws 2023, LB818, § 14.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB531, section 25, with LB818, section 14, to reflect all amendments.

Note: Changes made by LB531 became operative June 7, 2023. Changes made by LB818 became effective May 25, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 5

**PUBLIC WATER AND NATURAL RESOURCES
PROJECT CONTRACTING ACT**

Section

- 61-501. Act, how cited.
- 61-502. Terms, defined.
- 61-503. Purpose of act.
- 61-504. Design-build contract; progressive design-build contract; construction manager-general contractor contract; authorized.
- 61-505. Engineering or architectural consultant; hiring authorized.
- 61-506. Guidelines for contracts.
- 61-507. Process for selecting design-builder or progressive design-builder.
- 61-508. Request for qualifications; prequalify design-builders and progressive design-builders; notice; short list.
- 61-509. Design-build or progressive design-build contract; request for proposals; contents.
- 61-510. Stipend.
- 61-511. Alternative technical concepts; evaluation of proposals; department; power to negotiate.
- 61-512. Process for selection of construction manager and entering into construction manager-general contractor contract.
- 61-513. Construction manager-general contractor contract; request for proposals; contents.
- 61-514. Submission of proposals; procedure; evaluation of proposals; department; power to negotiate.
- 61-515. Department; duties; powers.
- 61-516. Contract changes authorized.
- 61-517. Projects for political subdivisions; department; powers; applicability of act.
- 61-518. Insurance requirements.
- 61-519. Rules and regulations.
- 61-520. Public-private partnership delivery method; authorized.

61-501 Act, how cited.

Sections 61-501 to 61-520 shall be known and may be cited as the Public Water and Natural Resources Project Contracting Act.

Source: Laws 2023, LB565, § 1.

Operative date September 2, 2023.

61-502 Terms, defined.

For purposes of the Public Water and Natural Resources Project Contracting Act:

(1) Alternative technical concept means changes suggested by a qualified, eligible, short-listed design-builder to the department's basic configurations, project scope, design, or construction criteria;

(2) Best value-based selection process means a process of selecting a design-builder using price, schedule, and qualifications for evaluation factors;

(3) Construction manager means the legal entity which proposes to enter into a construction manager-general contractor contract pursuant to the act;

(4) Construction manager-general contractor contract means a contract which is subject to a qualification-based selection process between the department and a construction manager to furnish preconstruction services during the design development phase of the project and, if an agreement can be reached which is satisfactory to the department, construction services for the construction phase of the project;

(5) Construction services means activities associated with building the project;

(6) Department means the Department of Natural Resources;

(7) Design-build contract means a contract between the department and a design-builder which is subject to a best value-based selection process to furnish (a) architectural, engineering, and related design services and (b) labor, materials, supplies, equipment, and construction services;

(8) Design-builder means the legal entity which proposes to enter into a design-build contract;

(9) Preconstruction services means all nonconstruction-related services that a construction manager performs in relation to the design of the project before execution of a contract for construction services. Preconstruction services includes, but is not limited to, cost estimating, value engineering studies, constructability reviews, delivery schedule assessments, and life-cycle analysis;

(10) Private partner means any entity that is a partner in a public-private partnership other than the State of Nebraska, any agency of the State of Nebraska, the federal government, any agency of the federal government, any other state government, or any agency of any government at any level;

(11) Progressive design-build means a project-delivery process in which both the design and construction of a project are procured from a single entity that is selected through a qualification-based selection process at the earliest feasible stage of the project;

(12) Project performance criteria means the performance requirements of the project suitable to allow the design-builder to make a proposal. Performance requirements shall include, but are not limited to, the following, if required by the project: Capacity, durability, standards, ingress and egress requirements, description of the site, surveys, soil and environmental information concerning the site, material quality standards, design and milestone dates, site development requirements, compliance with applicable law, and other criteria for the intended use of the project;

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(13) Proposal means an offer in response to a request for proposals (a) by a design-builder to enter into a design-build contract or (b) by a construction manager to enter into a construction manager-general contractor contract;

(14) Public-private partnership means a project delivery method for construction or financing of capital projects or procurement of services under a written public-private partnership agreement entered into pursuant to section 61-520 between at least one private partner and the State of Nebraska or any agency of the state;

(15) Qualification-based selection process means a process of selecting a construction manager or progressive design-builder based on qualifications;

(16) Request for proposals means the documentation by which the department solicits proposals; and

(17) Request for qualifications means the documentation or publication by which the department solicits qualifications.

Source: Laws 2023, LB565, § 2.

Operative date September 2, 2023.

61-503 Purpose of act.

The purpose of the Public Water and Natural Resources Project Contracting Act is to provide the department alternative methods of contracting for public water and natural resources projects. The alternative methods of contracting shall be available to the department for use on any project regardless of the funding source. Notwithstanding any other provision of state law to the contrary, the Public Water and Natural Resources Project Contracting Act shall govern the design-build, progressive design-build, and construction manager-general contractor procurement processes.

Source: Laws 2023, LB565, § 3.

Operative date September 2, 2023.

61-504 Design-build contract; progressive design-build contract; construction manager-general contractor contract; authorized.

The department, in accordance with the Public Water and Natural Resources Project Contracting Act, may solicit and execute a design-build contract, a progressive design-build contract, or a construction manager-general contractor contract for a public surface water or groundwater-related infrastructure project.

Source: Laws 2023, LB565, § 4.

Operative date September 2, 2023.

61-505 Engineering or architectural consultant; hiring authorized.

The department may hire an engineering or architectural consultant to assist the department with the development of project performance criteria and requests for proposals, with evaluation of proposals, with evaluation of the construction to determine adherence to the project performance criteria, and with any additional services requested by the department to represent its interests in relation to a project. The procedures used to hire such person or organization shall comply with the Nebraska Consultants' Competitive Negotiation Act. The person or organization hired shall be ineligible to be included as a provider of other services in a proposal for the project for which the person or

organization has been hired and shall not be employed by or have a financial or other interest in a design-builder or construction manager who will submit a proposal.

Source: Laws 2023, LB565, § 5.
Operative date September 2, 2023.

Cross References

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

61-506 Guidelines for contracts.

The department shall adopt guidelines for entering into a design-build contract, a progressive design-build contract, or a construction manager-general contractor contract. The department's guidelines shall include the following:

- (1) Preparation and content of requests for qualifications;
- (2) Preparation and content of requests for proposals;
- (3) Qualification and short-listing of design-builders, progressive design-builders, and construction managers. The guidelines shall provide that the department will evaluate prospective design-builders, progressive design-builders, and construction managers based on the information submitted to the department in response to a request for qualifications and will select a short list of design-builders, progressive design-builders, or construction managers who shall be considered qualified and eligible to respond to the request for proposals;
- (4) Preparation and submittal of proposals;
- (5) Procedures and standards for evaluating proposals;
- (6) Procedures for negotiations between the department and the design-builders, progressive design-builders, or construction managers submitting proposals prior to the acceptance of a proposal if any such negotiations are contemplated; and
- (7) Procedures for the evaluation of construction under a design-build contract or a progressive design-build contract to determine adherence to the project performance criteria.

Source: Laws 2023, LB565, § 6.
Operative date September 2, 2023.

61-507 Process for selecting design-builder or progressive design-builder.

- (1) The process for selecting a design-builder and entering into a design-build contract shall be in accordance with sections 61-508 to 61-511.
- (2) Except as otherwise specifically provided in the Public Water and Natural Resources Project Contracting Act, the process for selecting a progressive design-builder and entering into a progressive design-build contract shall be in accordance with sections 61-508 to 61-511.

Source: Laws 2023, LB565, § 7.
Operative date September 2, 2023.

61-508 Request for qualifications; prequalify design-builders and progressive design-builders; notice; short list.

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(1) The department shall prepare a request for qualifications for design-build and progressive design-build proposals and shall prequalify design-builders and progressive design-builders. The request for qualifications shall describe the project in sufficient detail to permit a design-builder or a progressive design-builder to respond. The request for qualifications shall identify the maximum number of design-builders or progressive design-builders the department will place on a short list as qualified and eligible to receive a request for proposals.

(2) A person or organization hired by the department under section 61-505 shall be ineligible to compete for a design-build contract on the same project for which the person or organization was hired.

(3) The request for qualifications shall be (a) published in a newspaper of statewide circulation at least thirty days prior to the deadline for receiving the request for qualifications and (b) sent by first-class mail to any design-builder or progressive design-builder upon request.

(4) The department shall create a short list of qualified and eligible design-builders or progressive design-builders in accordance with the guidelines adopted pursuant to section 61-506. The department shall select at least two prospective design-builders or progressive design-builders, except that if only one design-builder or progressive design-builder has responded to the request for qualifications, the department may, in its discretion, proceed or cancel the procurement. The request for proposals shall be sent only to the design-builders or progressive design-builders placed on the short list.

Source: Laws 2023, LB565, § 8.

Operative date September 2, 2023.

61-509 Design-build or progressive design-build contract; request for proposals; contents.

The department shall prepare a request for proposals for each design-build or progressive design-build contract. The request for proposals shall contain, at a minimum, the following elements:

(1) The guidelines adopted in accordance with section 61-506. The identification of a publicly accessible location of the guidelines, either physical or electronic, shall be considered compliance with this subdivision;

(2) The proposed terms and conditions of the design-build or progressive design-build contract, including any terms and conditions which are subject to further negotiation;

(3) A project statement which contains information about the scope and nature of the project;

(4) If applicable, a statement regarding alternative technical concepts including the process and time period in which such concepts may be submitted, confidentiality of the concepts, and ownership of the rights to the intellectual property contained in such concepts;

(5) Project performance criteria;

(6) Budget parameters for the project;

(7) Any bonding and insurance required by law or as may be additionally required by the department;

(8) The criteria for evaluation of proposals and the relative weight of each criterion. For both design-build and progressive design-build contracts, the

criteria shall include, but are not limited to, construction experience, design experience, and the financial, personnel, and equipment resources available for the project. For design-build contracts only, the criteria shall also include the cost of the work. For progressive design-build contracts only, the criteria shall also include consideration of the historic reasonableness of the progressive design-builder's costs and expenses when bidding and completing projects, whether such projects were completed using the progressive design-build process or another bidding and contracting process. The relative weight to apply to any criterion shall be at the discretion of the department based on each project, except that for all design-build contracts, the cost of the work shall be given a relative weight of at least fifty percent;

(9) A requirement that the design-builder or progressive design-builder provide a written statement of the design-builder's or progressive design-builder's proposed approach to the design and construction of the project, which may include graphic materials illustrating the proposed approach to design and construction and shall include price proposals;

(10) A requirement that the design-builder or progressive design-builder agree to the following conditions:

(a) At the time of the design-build or progressive design-build proposal, the design-builder or progressive design-builder must furnish to the department a written statement identifying the architect or engineer who will perform the architectural or engineering work for the project. The architect or engineer engaged by the design-builder or progressive design-builder to perform the architectural or engineering work with respect to the project must have direct supervision of such work and may not be removed by the design-builder or progressive design-builder prior to the completion of the project without the written consent of the department;

(b) At the time of the design-build or progressive design-build proposal, the design-builder or progressive design-builder must furnish to the department a written statement identifying the general contractor who will provide the labor, material, supplies, equipment, and construction services. The general contractor identified by the design-builder or progressive design-builder may not be removed by the design-builder or progressive design-builder prior to completion of the project without the written consent of the department;

(c) A design-builder or progressive design-builder offering design-build or progressive design-build services with its own employees who are design professionals licensed to practice in Nebraska must (i) comply with the Engineers and Architects Regulation Act by procuring a certificate of authorization to practice architecture or engineering and (ii) submit proof of sufficient professional liability insurance in the amount required by the department; and

(d) The rendering of architectural or engineering services by a licensed architect or engineer employed by the design-builder or progressive design-builder must conform to the Engineers and Architects Regulation Act;

(11) The amount and terms of the stipend required pursuant to section 61-510, if any; and

(12) Other information or requirements which the department, in its discretion, chooses to include in the request for proposals.

Source: Laws 2023, LB565, § 9.

Operative date September 2, 2023.

PUBLIC WATER AND NATURAL RESOURCES PROJECT CONTRACTING § 61-511

Cross References

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

61-510 Stipend.

The department shall pay a stipend to qualified design-builders that submit responsive proposals but are not selected. Payment of the stipend shall give the department ownership of the intellectual property contained in the proposals and alternative technical concepts. The amount of the stipend shall be at the discretion of the department as disclosed in the request for proposals.

Source: Laws 2023, LB565, § 10.
Operative date September 2, 2023.

61-511 Alternative technical concepts; evaluation of proposals; department; power to negotiate.

(1) Design-builders and progressive design-builders shall submit proposals as required by the request for proposals. The department may meet with individual design-builders and progressive design-builders prior to the time of submitting the proposal and may have discussions concerning alternative technical concepts. If an alternative technical concept provides a solution that is equal to or better than the requirements in the request for proposals and the alternative technical concept is acceptable to the department, it may be incorporated as part of the proposal by the design-builder or progressive design-builder. Notwithstanding any other provision of state law to the contrary, alternative technical concepts shall be confidential and not disclosed to other design-builders, progressive design-builders, or members of the public from the time the proposals are submitted until such proposals are opened by the department.

(2) Proposals shall be sealed and shall not be opened until expiration of the time established for making the proposals as set forth in the request for proposals.

(3) Proposals may be withdrawn at any time prior to the opening of such proposals, in which case no stipend shall be paid. The department shall have the right to reject any and all proposals at no cost to the department other than any stipend for design-builders who have submitted responsive proposals. The department may thereafter solicit new proposals using the same or different project performance criteria or may cancel the design-build or progressive design-build solicitation.

(4) The department shall rank the design-builders or progressive design-builders in order of best value pursuant to the criteria in the request for proposals. The department may meet with design-builders or progressive design-builders prior to ranking.

(5) The department may attempt to negotiate a design-build or progressive design-build contract with the highest ranked design-builder or progressive design-builder selected by the department and may enter into a design-build or progressive design-build contract after negotiations. If the department is unable to negotiate a satisfactory design-build or progressive design-build contract with the highest ranked design-builder or progressive design-builder, the department may terminate negotiations with that design-builder or progressive design-builder. The department may then undertake negotiations with the second highest ranked design-builder or progressive design-builder and may enter into a design-build or progressive design-build contract after negotiations.

If the department is unable to negotiate a satisfactory contract with the second highest ranked design-builder or progressive design-builder, the department may undertake negotiations with the third highest ranked design-builder or progressive design-builder, if any, and may enter into a design-build or progressive design-build contract after negotiations.

(6) If the department is unable to negotiate a satisfactory contract with any of the ranked design-builders or progressive design-builders, the department may either revise the request for proposals and solicit new proposals or cancel the design-build or progressive design-build process under the Public Water and Natural Resources Project Contracting Act.

Source: Laws 2023, LB565, § 11.
Operative date September 2, 2023.

61-512 Process for selection of construction manager and entering into construction manager-general contractor contract.

(1) The process for selecting a construction manager and entering into a construction manager-general contractor contract shall be in accordance with this section and sections 61-513 to 61-515.

(2) The department shall prepare a request for qualifications for construction manager-general contractor contract proposals and shall prequalify construction managers. The request for qualifications shall describe the project in sufficient detail to permit a construction manager to respond. The request for qualifications shall identify the maximum number of eligible construction managers the department will place on a short list as qualified and eligible to receive a request for proposals.

(3) The request for qualifications shall be (a) published in a newspaper of statewide circulation at least thirty days prior to the deadline for receiving the request for qualifications and (b) sent by first-class mail to any construction manager upon request.

(4) The department shall create a short list of qualified and eligible construction managers in accordance with the guidelines adopted pursuant to section 61-506. The department shall select at least two construction managers, except that if only one construction manager has responded to the request for qualifications, the department may, in its discretion, proceed or cancel the procurement. The request for proposals shall be sent only to the construction managers placed on the short list.

Source: Laws 2023, LB565, § 12.
Operative date September 2, 2023.

61-513 Construction manager-general contractor contract; request for proposals; contents.

The department shall prepare a request for proposals for each construction manager-general contractor contract. The request for proposals shall contain, at a minimum, the following elements:

(1) The guidelines adopted by the department in accordance with section 61-506. The identification of a publicly accessible location of the guidelines, either physical or electronic, shall be considered compliance with this subdivision;

PUBLIC WATER AND NATURAL RESOURCES PROJECT CONTRACTING § 61-514

(2) The proposed terms and conditions of the contract, including any terms and conditions which are subject to further negotiation;

(3) Any bonding and insurance required by law or as may be additionally required by the department;

(4) General information about the project which will assist the department in its selection of the construction manager, including a project statement which contains information about the scope and nature of the project, the project site, the schedule, and the estimated budget;

(5) The criteria for evaluation of proposals and the relative weight of each criterion;

(6) A statement that the construction manager shall not be allowed to sublet, assign, or otherwise dispose of any portion of the contract without consent of the department. In no case shall the department allow the construction manager to sublet more than seventy percent of the work, excluding specialty items; and

(7) Other information or requirements which the department, in its discretion, chooses to include in the request for proposals.

Source: Laws 2023, LB565, § 13.

Operative date September 2, 2023.

61-514 Submission of proposals; procedure; evaluation of proposals; department; power to negotiate.

(1) Construction managers shall submit proposals as required by the request for proposals.

(2) Proposals shall be sealed and shall not be opened until expiration of the time established for making the proposals as set forth in the request for proposals.

(3) Proposals may be withdrawn at any time prior to signing a contract for preconstruction services. The department shall have the right to reject any and all proposals at no cost to the department. The department may thereafter solicit new proposals or may cancel the construction manager-general contractor procurement process.

(4) The department shall rank the construction managers in accordance with the qualification-based selection process and pursuant to the criteria in the request for proposals. The department may meet with construction managers prior to the ranking.

(5) The department may attempt to negotiate a contract for preconstruction services with the highest ranked construction manager and may enter into a contract for preconstruction services after negotiations. If the department is unable to negotiate a satisfactory contract for preconstruction services with the highest ranked construction manager, the department may terminate negotiations with that construction manager. The department may then undertake negotiations with the second highest ranked construction manager and may enter into a contract for preconstruction services after negotiations. If the department is unable to negotiate a satisfactory contract with the second highest ranked construction manager, the department may undertake negotiations with the third highest ranked construction manager, if any, and may enter into a contract for preconstruction services after negotiations.

(6) If the department is unable to negotiate a satisfactory contract for preconstruction services with any of the ranked construction managers, the department may either revise the request for proposals and solicit new proposals or cancel the construction manager-general contractor contract process under the Public Water and Natural Resources Project Contracting Act.

Source: Laws 2023, LB565, § 14.
Operative date September 2, 2023.

61-515 Department; duties; powers.

(1) Before the construction manager begins any construction services, the department shall:

- (a) Conduct an independent cost estimate for the project; and
- (b) Conduct contract negotiations with the construction manager to develop a construction manager-general contractor contract for construction services.

(2) If the construction manager and the department are unable to negotiate a contract, the department may use other contract procurement processes. Persons or organizations who submitted proposals but were unable to negotiate a contract with the department shall be eligible to compete in the other contract procurement processes.

Source: Laws 2023, LB565, § 15.
Operative date September 2, 2023.

61-516 Contract changes authorized.

A design-build contract, a progressive design-build contract, and a construction manager-general contractor contract may be conditioned upon later refinements in scope and price and may permit the department in agreement with the design-builder, progressive design-builder, or construction manager to make changes in the project without invalidating the contract.

Source: Laws 2023, LB565, § 16.
Operative date September 2, 2023.

61-517 Projects for political subdivisions; department; powers; applicability of act.

The department may enter into agreements under the Public Water and Natural Resources Project Contracting Act to let, design, and construct projects for political subdivisions when any of the funding for such projects is provided by or through the department. In such instances, the department may enter into contracts with the design-builder, progressive design-builder, or construction manager. The Political Subdivisions Construction Alternatives Act shall not apply to projects let, designed, and constructed under the supervision of the department pursuant to agreements with political subdivisions under the Public Water and Natural Resources Project Contracting Act.

Source: Laws 2023, LB565, § 17.
Operative date September 2, 2023.

Cross References

Political Subdivisions Construction Alternatives Act, see section 13-2901.

61-518 Insurance requirements.

PUBLIC WATER AND NATURAL RESOURCES PROJECT CONTRACTING § 61-520

Nothing in the Public Water and Natural Resources Project Contracting Act shall limit or reduce statutory or regulatory requirements regarding insurance.

Source: Laws 2023, LB565, § 18.

Operative date September 2, 2023.

61-519 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Public Water and Natural Resources Project Contracting Act.

Source: Laws 2023, LB565, § 19.

Operative date September 2, 2023.

61-520 Public-private partnership delivery method; authorized.

(1) A public-private partnership delivery method may be used for projects under the Public Water and Natural Resources Project Contracting Act as provided in this section and rules and regulations adopted and promulgated pursuant to this section only to the extent allowed under the Constitution of Nebraska. State contracts using this method shall be awarded by competitive negotiation.

(2) The department utilizing a public-private partnership shall continue to be responsible for oversight of any function that is delegated to or otherwise performed by a private partner.

(3) On or before July 1, 2024, the Director of Natural Resources shall adopt and promulgate rules and regulations setting forth criteria to be used in determining when a public-private partnership is to be used for a particular project. The rules and regulations shall reflect the intent of the Legislature to promote and encourage the use of public-private partnerships in the State of Nebraska. The Director of Natural Resources shall consult with design-builders, progressive design-builders, construction managers, other contractors and design professionals, including engineers and architects, and other appropriate professionals during the development of the rules and regulations.

(4) A request for proposals for a project utilizing a public-private partnership shall include at a minimum:

- (a) The parameters of the proposed public-private partnership agreement;
- (b) The duties and responsibilities to be performed by the private partner or private partners;
- (c) The methods of oversight to be employed by the department;
- (d) The duties and responsibilities that are to be performed by the department and any other parties to the contract;
- (e) The evaluation factors and the relative weight of each factor to be used in the scoring of awards;
- (f) Plans for financing and operating the project and the revenue, service payments, bond financings, and appropriations of public funds needed for the qualifying project;
- (g) Comprehensive documentation of the experience, capabilities, capitalization and financial condition, and other relevant qualifications of the private entity submitting the proposal;
- (h) The ability of a private partner or private partners to quickly respond to the needs presented in the request for proposals and the importance of

economic development opportunities represented by the project. In evaluating proposals, preference shall be given to a plan that includes the involvement of small businesses as subcontractors, to the extent that small businesses can provide services in a competitive manner, unless any preference interferes with the qualification for federal or other funds; and

(i) Other information required by the department to evaluate the proposals submitted and the overall proposed public-private partnership.

(5) A private entity desiring to be a private partner shall demonstrate to the satisfaction of the department that it is capable of performing any duty, responsibility, or function it may be authorized or directed to perform as a term or condition of the public-private partnership agreement.

(6) A request for proposals may be canceled, or all proposals may be rejected, if it is determined in writing that such action is taken in the best interest of the State of Nebraska and approved by the purchasing officer.

(7) Upon execution of a public-private partnership agreement, the department shall ensure that the contract clearly identifies that a public-private partnership is being utilized.

(8) The department shall:

(a) Adhere to the rules and regulations adopted and promulgated under this section when utilizing a public-private partnership for financing capital projects; and

(b) Electronically report annually to the Natural Resources Committee of the Legislature regarding private-public partnerships which have been considered or are approved pursuant to this section.

Source: Laws 2023, LB565, § 20.

Operative date September 2, 2023.

CHAPTER 66

OILS, FUELS, AND ENERGY

Article.

4. Motor Vehicle Fuel Tax. 66-4,100.
22. Renewable Fuel Infrastructure.
 - (b) E-15 Access Standard Act. 66-2208 to 66-2218.
23. Hydrogen and Nuclear Industries Development.
 - (a) Hydrogen Hubs. 66-2301.
 - (b) Nuclear and Hydrogen Industries. 66-2302 to 66-2308.

ARTICLE 4

MOTOR VEHICLE FUEL TAX

Section

66-4,100. Highway Cash Fund; Roads Operations Cash Fund; created; use; investment.

66-4,100 Highway Cash Fund; Roads Operations Cash Fund; created; use; investment.

The Highway Cash Fund and the Roads Operations Cash Fund are hereby created. If bonds are issued pursuant to subsection (2) of section 39-2223, the balance of the share of the Highway Trust Fund allocated to the Department of Transportation and deposited into the Highway Restoration and Improvement Bond Fund as provided in subsection (8) of section 39-2215 and the balance of the money deposited in the Highway Restoration and Improvement Bond Fund as provided in section 39-2215.01 shall be transferred by the State Treasurer, on or before the last day of each month, to the Highway Cash Fund. If no bonds are issued pursuant to subsection (2) of section 39-2223, the share of the Highway Trust Fund allocated to the Department of Transportation shall be transferred by the State Treasurer on or before the last day of each month to the Highway Cash Fund.

The Legislature may direct the State Treasurer to transfer funds from the Highway Cash Fund to the Roads Operations Cash Fund. Both funds shall be expended by the department (1) for acquiring real estate, road materials, equipment, and supplies to be used in the construction, reconstruction, improvement, and maintenance of state highways, (2) for the construction, reconstruction, improvement, and maintenance of state highways, including grading, drainage, structures, surfacing, roadside development, landscaping, and other incidentals necessary for proper completion and protection of state highways as the department shall, after investigation, find and determine shall be for the best interests of the highway system of the state, either independent of or in conjunction with federal-aid money for highway purposes, (3) for the share of the department of the cost of maintenance of state aid bridges, (4) for planning studies in conjunction with federal highway funds for the purpose of analyzing traffic problems and financial conditions and problems relating to state, county, township, municipal, federal, and all other roads in the state and for incidental costs in connection with the federal-aid grade crossing program for roads not on state highways, (5) for tests and research by the department or proportion-

ate costs of membership, tests, and research of highway organizations when participated in by the highway departments of other states, (6) for the payment of expenses and costs of the Board of Examiners for County Highway and City Street Superintendents as set forth in section 39-2310, (7) for support of the public transportation assistance program established under section 13-1209 and the intercity bus system assistance program established under section 13-1213, (8) for purchasing from political or governmental subdivisions or public corporations, pursuant to section 39-1307, any federal-aid transportation funds available to such entities, (9) for costs related to the administration of the Division of Aeronautics of the Department of Transportation as specified in section 3-107, and (10) for furnishing the Nebraska Broadband Office with necessary office space, furniture, equipment, and supplies as well as providing administrative and budgetary support, including salaries for professional, technical, and clerical assistants, as provided in section 81-702.

Any money in the Highway Cash Fund and the Roads Operations Cash Fund not needed for current operations of the department shall, as directed by the Director-State Engineer to the State Treasurer, be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, subject to approval by the board of each investment. All income received as a result of such investment shall be placed in the Highway Cash Fund.

Source: Laws 1937, c. 148, § 4, p. 570; Laws 1939, c. 84, § 2, p. 363; Laws 1941, c. 133, § 2, p. 525; Laws 1941, c. 134, § 10, p. 536; C.S.Supp.,1941, § 66-411; Laws 1943, c. 138, § 1(4), p. 472; Laws 1943, c. 139, § 1(4), p. 479; R.S.1943, § 66-424; Laws 1947, c. 214, § 4, p. 698; Laws 1953, c. 131, § 15, p. 410; Laws 1965, c. 393, § 1, p. 1257; Laws 1969, c. 530, § 3, p. 2171; Laws 1971, LB 21, § 1; Laws 1972, LB 1496, § 2; Laws 1986, LB 599, § 16; Laws 1988, LB 632, § 19; Laws 1990, LB 602, § 3; R.S. 1943, (1990), § 66-424; Laws 1994, LB 1066, § 51; Laws 1994, LB 1194, § 15; Laws 2004, LB 1144, § 4; Laws 2011, LB98, § 2; Laws 2017, LB331, § 32; Laws 2017, LB339, § 238; Laws 2023, LB138, § 50; Laws 2023, LB683, § 2; Laws 2023, LB727, § 45.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB138, section 50, with LB683, section 2, and LB727, section 45, to reflect all amendments.

Note: Changes made by LB138 became operative September 2, 2023. Changes made by LB683 became effective May 27, 2023. Changes made by LB727 became operative June 7, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 22

RENEWABLE FUEL INFRASTRUCTURE

(b) E-15 ACCESS STANDARD ACT

Section

66-2208. E-15 Access Standard Act, how cited.

66-2209. Purpose of act.

66-2210. Terms, defined.

66-2211. Retail motor fuel site; motor fuel storage and dispensing infrastructure; new or replacement; retail dealer; requirements.

66-2212. Governor; executive order suspending E-15 access standard, when.

Section

- 66-2213. Waiver; application; administrative order; issuance; termination.
- 66-2214. Motor fuel storage tanks; requirements; not applicable, when.
- 66-2215. Small retail motor fuel site; E-15 access standard; not applicable, when.
- 66-2216. Statewide ethanol blend rate; Department of Revenue; Department of Environment and Energy; retail dealers; duties.
- 66-2217. Weighing and measuring establishment permit; suspend or revoke; grounds.
- 66-2218. Rules and regulations.

(b) E-15 ACCESS STANDARD ACT

66-2208 E-15 Access Standard Act, how cited.

Sections 66-2208 to 66-2218 shall be known and may be cited as the E-15 Access Standard Act.

Source: Laws 2023, LB562, § 1.
Effective date September 2, 2023.

66-2209 Purpose of act.

The purpose of the E-15 Access Standard Act is to increase consumer access to E-15 gasoline through the establishment of an access standard.

Source: Laws 2023, LB562, § 2.
Effective date September 2, 2023.

66-2210 Terms, defined.

For purposes of the E-15 Access Standard Act, unless the context otherwise requires:

- (1) Department means the Department of Agriculture;
- (2) Director means the Director of Agriculture;
- (3) E-15 access standard means the requirements described in subsections (1) and (2) of section 66-2211;
- (4) E-15 gasoline means a classification of ethanol blended gasoline formulated with a percentage of more than ten percent but no more than fifteen percent by volume of ethanol;
- (5) Ethanol has the same meaning as agricultural ethyl alcohol as defined in section 66-482;
- (6) Motor fuel means a substance or combination of substances which is intended to be or is capable of being used for the purpose of operating an internal combustion engine and is kept for sale or sold for that purpose;
- (7) Motor fuel dispenser means equipment that is the part of motor fuel storage and dispensing infrastructure that includes mechanical or electrical systems that operate a motor fuel pump dispensing motor fuel from a motor fuel storage tank to the end point of the equipment's nozzle;
- (8) Motor fuel pump means the part of motor fuel storage and dispensing infrastructure that is a meter or similar commercial weighing and measuring device used to measure and dispense motor fuel originating from a motor fuel storage tank, on a retail basis;
- (9)(a) Motor fuel storage and dispensing infrastructure means equipment used to:
 - (i) Store and dispense motor fuel; or

(ii) Store, blend, and dispense motor fuel.

(b) Motor fuel storage and dispensing infrastructure includes, but is not limited to, a motor fuel storage tank, motor fuel pump, motor fuel dispenser, and associated pipes, hoses, nozzles, tubes, lines, fittings, valves, filters, seals, and covers. Motor fuel storage and dispensing infrastructure does not include signage not located on the motor fuel dispenser or motor fuel pump;

(10) Motor fuel storage tank means the part of motor fuel storage and dispensing infrastructure that includes an aboveground or belowground container constituting a fixture used to store an accumulation of motor fuel;

(11) Nonqualifying motor fuel dispenser means:

(a) A dispenser that exclusively dispenses any of the following:

(i) Aviation fuel;

(ii) Diesel fuel;

(iii) Kerosene; or

(iv) Diesel exhaust fluid;

(b) A dispenser that is part of a tank vehicle as defined in section 60-4,131 that is not used to dispense motor fuel on the premises of the retail motor fuel site; or

(c) A dispenser that is part of a commercial marina;

(12) Qualifying motor fuel dispenser means a motor fuel dispenser that is capable of dispensing motor fuel at all times that it is in operation. The term does not include nonqualifying motor fuel dispensers;

(13) 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

(14) Retail motor fuel site means a geographic location in this state where a retail dealer sells and dispenses motor fuel on a retail basis.

Source: Laws 2023, LB562, § 3.

Effective date September 2, 2023.

66-2211 Retail motor fuel site; motor fuel storage and dispensing infrastructure; new or replacement; retail dealer; requirements.

(1) Beginning January 1, 2024, if a retail dealer constructs a new retail motor fuel site or replaces more than eighty percent of the motor fuel storage and dispensing infrastructure located at an existing retail motor fuel site, the retail dealer shall advertise for sale and sell E-15 gasoline from at least fifty percent of all qualifying motor fuel dispensers located at such retail motor fuel site unless the retail dealer has filed a statement with the department under section 66-2215 in which the retail dealer swears or affirms that the retail motor fuel site qualifies as a small retail motor fuel site.

(2) If the statewide ethanol blend rate for 2027 is below fourteen percent as determined pursuant to section 66-2216 and the retail motor fuel site is not a retail motor fuel site described in subsection (1) of this section, then beginning January 1, 2028, the retail dealer shall advertise for sale and sell E-15 gasoline from at least one qualifying motor fuel dispenser located at such retail motor fuel site unless:

(a) A waiver has been issued under section 66-2213 because the motor fuel storage and dispensing infrastructure located at the retail motor fuel site is not compatible with the use of E-15 gasoline;

(b) The retail motor fuel site is exempt under section 66-2214 because all of the motor fuel storage tanks located at such site are listed with the State Fire Marshal as described in section 66-2214; or

(c) The retail dealer has filed a statement with the department under section 66-2215 in which the retail dealer swears or affirms that the retail motor fuel site qualifies as a small retail motor fuel site.

(3) A retail dealer owning or operating a retail motor fuel site is not prohibited from advertising for sale and selling motor fuel from any number of nonqualifying motor fuel dispensers.

(4) It is not a violation of this section if a retail dealer is out of compliance with this section while (a) temporarily maintaining, repairing, or reconditioning motor fuel storage and dispensing infrastructure or (b) temporarily installing, expanding, replacing, or converting motor fuel storage and dispensing infrastructure. The department may require that a retail dealer notify the department in advance of such actions, and the department may inspect the retail motor fuel site to determine if a violation occurred.

Source: Laws 2023, LB562, § 4.
Effective date September 2, 2023.

66-2212 Governor; executive order suspending E-15 access standard, when.

The Governor may issue or renew an executive order that temporarily suspends the E-15 access standard if there is an inadequate supply of E-15 gasoline or the market price of E-15 gasoline may cause consumers to suffer economic hardship.

Source: Laws 2023, LB562, § 5.
Effective date September 2, 2023.

66-2213 Waiver; application; administrative order; issuance; termination.

(1) The director shall issue an administrative order that waives the requirement that a retail dealer comply with subsection (2) of section 66-2211 at a retail motor fuel site owned or operated by the retail dealer if the retail motor fuel site qualifies under this section based on the fact that the motor fuel storage and dispensing infrastructure located at such site is not compatible with the use of E-15 gasoline.

(2) A retail dealer may apply for a waiver under this section by submitting an application to the department in a manner prescribed by the department.

(3) The application shall be supported by credible evidence that the retail dealer is unable to comply with subsection (2) of section 66-2211 because the motor fuel storage and dispensing infrastructure located at the retail motor fuel site is not compatible with the use of E-15 gasoline and the cost to replace the motor fuel storage and dispensing infrastructure would exceed fifteen thousand dollars as determined by a person certified by the department as a professional retail motor fuel site installer. For purposes of this section, motor fuel storage and dispensing infrastructure is compatible with E-15 gasoline if the equipment is included in a list published by an independent testing laboratory for use with

E-15 gasoline or the manufacturer of the equipment has issued a written statement of compatibility with E-15 gasoline.

(4) The application shall include an inventory and description of the motor fuel storage and dispensing infrastructure located at the retail motor fuel site.

(5) The department may require a retail dealer to attach any supporting documentation to the application, which may include an inspection report completed by a person certified by the department as a professional retail motor fuel site installer. The certified professional retail motor fuel site installer may be a licensed engineer or other person who the department determines is qualified by education, testing, or experience to oversee a project involving the installation, replacement, or conversion of motor fuel storage and dispensing infrastructure.

(6) The department, in consultation with the State Fire Marshal, shall review and evaluate an application to determine whether it is supported by credible evidence sufficient for the director to issue an order granting a waiver under this section. The department shall approve or disapprove a completed application within one hundred twenty days following the date that the application was submitted to the department.

(7) The retail dealer shall sign the application, which shall include a statement that the retail dealer swears or affirms that all information in the application completed by the retail dealer is true and correct. If a certified professional retail motor fuel site installer completes an inspection report to support an application, the installer shall sign a statement that the installer swears or affirms that all information in the inspection report completed by the installer is true and correct.

(8) The department may inspect the premises of a retail motor fuel site during normal business hours to administer and enforce the provisions of this section.

(9) The department shall publish a copy of each administrative order granting a waiver under this section on the department's website within ten days after the issuance of the order. The order shall take effect on its date of publication, unless the order specifies a later date.

(10)(a) The director shall terminate an administrative order issued under this section if a terminable event has occurred. A terminable event includes any of the following:

(i) The failure of a retail dealer to maintain a valid permit as required under section 89-187.01;

(ii) The cessation of the retail dealer's business of advertising for sale or selling motor fuel at the retail motor fuel site; or

(iii) The installation, replacement, or conversion of a motor fuel storage tank located at the retail motor fuel site.

(b) The department may require that a retail dealer notify the department that a terminable event as described in subdivision (10)(a) of this section is planned to occur, is occurring, or has occurred.

Source: Laws 2023, LB562, § 6.

Effective date September 2, 2023.

66-2214 Motor fuel storage tanks; requirements; not applicable, when.

Subsection (2) of section 66-2211 shall not apply to a retail motor fuel site if all of the motor fuel storage tanks located at such site are listed with the State Fire Marshal as falling within one of the following categories:

- (1) Each motor fuel storage tank not constructed of fiberglass was installed during or prior to 1985; or
- (2) Each motor fuel storage tank constructed of fiberglass was installed during or prior to:
 - (a) For a double-wall fiberglass underground motor fuel storage tank, 1991; or
 - (b) For a single-wall fiberglass underground motor fuel storage tank, 1996.

Source: Laws 2023, LB562, § 7.

Effective date September 2, 2023.

66-2215 Small retail motor fuel site; E-15 access standard; not applicable, when.

(1) The E-15 access standard shall not apply to a retail motor fuel site if the retail dealer provides a statement to the Department of Agriculture in which the retail dealer swears or affirms that the retail motor fuel site qualifies under this section as a small retail motor fuel site. A retail dealer may include multiple retail motor fuel sites in one statement.

(2) For purposes of this section, a retail motor fuel site shall qualify as a small retail motor fuel site if:

- (a) The retail motor fuel site has only one qualifying motor fuel dispenser; or
- (b) The retail motor fuel site's average annual gasoline gallonage was three hundred thousand gallons or less for the three-year period beginning on January 1, 2021, and ending on December 31, 2023.

(3) Upon request by the Department of Agriculture, the Department of Revenue shall determine whether or not a particular retail motor fuel site met the average annual gasoline gallonage requirement described in subdivision (2)(b) of this section and shall inform the Department of Agriculture of such determination. The determination shall be based on information for the retail motor fuel site in motor fuel tax returns required to be filed by the retail dealer with the Department of Revenue.

(4) The information received by the Department of Agriculture from the Department of Revenue under subsection (3) of this section shall be confidential and shall be used by the Department of Agriculture for the limited purposes of evaluating a retail dealer's compliance with this section.

(5) The Department of Revenue may adopt and promulgate rules and regulations as needed to carry out this section.

(6) The Department of Agriculture shall publish on its website the number of statements filed with the department under this section and the total number of retail motor fuel sites qualifying as small retail motor fuel sites.

(7) The Department of Agriculture may inspect the premises of a retail motor fuel site during normal business hours to administer and enforce the provisions of this section.

Source: Laws 2023, LB562, § 8.

Effective date September 2, 2023.

66-2216 Statewide ethanol blend rate; Department of Revenue; Department of Environment and Energy; retail dealers; duties.

Beginning in 2025, the Department of Revenue and the Department of Environment and Energy shall annually issue a joint report that identifies the statewide ethanol blend rate. The statewide ethanol blend rate shall be equal to the average percentage of ethanol contained in each gallon of motor fuel sold in this state. Retail dealers shall provide a quarterly report of the number of gallons of each type of motor fuel sold and the percentage of ethanol in each gallon to the Department of Revenue. Reports to the Department of Revenue shall be submitted on a form and in the manner prescribed by the Department of Revenue.

Source: Laws 2023, LB562, § 9.
Effective date September 2, 2023.

66-2217 Weighing and measuring establishment permit; suspend or revoke; grounds.

(1) Beginning January 1, 2024, the department may suspend or revoke a permit issued to a retail dealer pursuant to section 89-187.01 if the retail dealer fails to comply with subsection (1) of section 66-2211.

(2) Beginning April 1, 2028, the department may suspend or revoke a permit issued to a retail dealer pursuant to section 89-187.01 if the retail dealer fails to comply with subsection (2) of section 66-2211.

Source: Laws 2023, LB562, § 10.
Effective date September 2, 2023.

66-2218 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the E-15 Access Standard Act.

Source: Laws 2023, LB562, § 11.
Effective date September 2, 2023.

ARTICLE 23**HYDROGEN AND NUCLEAR INDUSTRIES DEVELOPMENT**

(a) HYDROGEN HUBS

Section

66-2301. Clean hydrogen hub; legislative findings; Nebraska Hydrogen Hub Industry Work Group; members; duties; appropriations; legislative intent.

(b) NUCLEAR AND HYDROGEN INDUSTRIES

66-2302. Act, how cited.

66-2303. Legislative findings and declarations.

66-2304. Terms, defined.

66-2305. Nuclear and Hydrogen Industry Work Group; created; members; per diems; expenses.

66-2306. Work group; duties.

66-2307. Education training courses; grants to community colleges and state colleges.

66-2308. Nuclear and Hydrogen Development Fund; created; use.

(a) HYDROGEN HUBS

66-2301 Clean hydrogen hub; legislative findings; Nebraska Hydrogen Hub Industry Work Group; members; duties; appropriations; legislative intent.

(1) The Legislature finds that there is a unique benefit for the state to compete for designation by the United States Department of Energy as a location for a regional clean hydrogen hub. The development of a clean hydrogen hub in the state would provide the potential for significant investments in clean energy production, new infrastructure, and high-paying careers. The Legislature further finds that Nebraska is in a unique position to compete due to its central location, existing clean hydrogen-producing industry, synthetic and biofuels industry, demand for fertilizer used by its large agricultural industry, and railroad and trucking transportation network.

(2)(a) The Department of Economic Development shall create the Nebraska Hydrogen Hub Industry Work Group. The Governor shall appoint members to the work group that include, but are not limited to, representatives from the following sectors: (i) Manufacturing or industry, (ii) agriculture, (iii) transportation, and (iv) energy. The work group may include a representative of a clean hydrogen manufacturer.

(b) The purpose of the work group is to develop and draft a competitive proposal which may be submitted to the United States Department of Energy to be selected as one of the regional clean hydrogen hubs authorized under the federal Infrastructure Investment and Jobs Act, Public Law 117-58.

(c) The Department of Economic Development may contract with private consultants to create the competitive proposal. Specifically, the work group shall determine how to maximize the state's geographic location to connect a nationwide hydrogen network. Additionally, the work group shall build a plan to make the case for an agricultural-based clean hydrogen hub, expanding the existing eligible purposes.

(3) It is the intent of the Legislature to appropriate two hundred fifty thousand dollars from the General Fund for FY2023-24 and two hundred fifty thousand dollars from the General Fund for FY2024-25 to the Department of Economic Development for the purpose of providing grants to any public power district that serves a majority of the counties in the state to be used for engineering and modeling work to prepare and support the state in competing for one of the United States Department of Energy's regional clean hydrogen hub designations and associated federal funding.

(4) The Department of Economic Development may adopt and promulgate rules and regulations to carry out the grant program described in subsection (3) of this section.

Source: Laws 2022, LB1099, § 1; Laws 2023, LB565, § 34.
Operative date May 27, 2023.

(b) NUCLEAR AND HYDROGEN INDUSTRIES

66-2302 Act, how cited.

Sections 66-2302 to 66-2308 shall be known and may be cited as the Nuclear and Hydrogen Development Act.

Source: Laws 2023, LB565, § 35.
Operative date May 27, 2023.

66-2303 Legislative findings and declarations.

The Legislature finds and declares that it is the policy of the Legislature to support the advanced nuclear and hydrogen industries.

Source: Laws 2023, LB565, § 36.
Operative date May 27, 2023.

66-2304 Terms, defined.

For purposes of the Nuclear and Hydrogen Development Act:

- (1) Department means the Department of Economic Development; and
- (2) Work group means the Nuclear and Hydrogen Industry Work Group created in section 66-2305.

Source: Laws 2023, LB565, § 37.
Operative date May 27, 2023.

66-2305 Nuclear and Hydrogen Industry Work Group; created; members; per diems; expenses.

- (1) The department shall create the Nuclear and Hydrogen Industry Work Group.
- (2) The work group shall consist of the following twelve members:
 - (a) One representative of the Nebraska community college system;
 - (b) One representative of the Nebraska state college system;
 - (c) Two representatives of the nuclear industry;
 - (d) Two representatives of the hydrogen industry;
 - (e) One representative of a public power district;
 - (f) Two at-large members;
 - (g) The Director of Economic Development or a designee of the director;
 - (h) The chairperson of the Natural Resources Committee of the Legislature or a designee of the chairperson; and
 - (i) The chairperson of the Government, Military and Veterans Affairs Committee of the Legislature or a designee of the chairperson.
- (3) The work group members described in subdivisions (2)(a) through (f) of this section shall be appointed by the Governor. The work group members described in subdivisions (2)(h) and (i) of this section shall serve as ex officio, nonvoting members.

(4)(a) Each work group member described in subdivisions (2)(a) through (f) of this section may receive a per diem of sixty dollars for each day such member attends a meeting of the work group or is engaged in matters concerning the work group, except that no work group member shall receive more than one thousand dollars in per diems per year under this subdivision.

(b) Each such work group member shall be reimbursed for travel and lodging expenses for the performance of such member's duties while carrying out the Nuclear and Hydrogen Development Act as provided in sections 81-1174 to 81-1177 to be paid out of the Nuclear and Hydrogen Development Fund.

Source: Laws 2023, LB565, § 38.
Operative date May 27, 2023.

66-2306 Work group; duties.

The work group shall examine and make recommendations to the department regarding the workforce training needs of the nuclear and hydrogen industries and provide an opportunity for collaboration of such industries with the Nebraska community college system and Nebraska state college system to develop education training courses.

Source: Laws 2023, LB565, § 39.
Operative date May 27, 2023.

66-2307 Education training courses; grants to community colleges and state colleges.

The department shall establish procedures and criteria for awarding grants to community colleges and state colleges that implement education training courses designed to alleviate the workforce training needs of the nuclear and hydrogen industries based on the recommendations of the work group. The grants awarded by the department shall be used for equipment, curriculum, programming, or marketing needed to provide such education training courses.

Source: Laws 2023, LB565, § 40.
Operative date May 27, 2023.

66-2308 Nuclear and Hydrogen Development Fund; created; use.

(1) The Nuclear and Hydrogen Development Fund is created. The department shall administer the fund to provide per diems and travel and lodging reimbursement to members of the work group as provided under section 66-2305. The fund shall consist of money transferred by the Legislature. The State Treasurer shall transfer two hundred thousand dollars to the fund from the General Fund as soon as administratively possible after May 27, 2023.

(2) The Nuclear and Hydrogen Development Fund terminates on July 31, 2028, and the State Treasurer shall transfer any money in the fund on such date to the General Fund.

Source: Laws 2023, LB565, § 41.
Operative date May 27, 2023.

CHAPTER 68

PUBLIC ASSISTANCE

Article.

- 9. Medical Assistance Act. 68-901 to 68-9,104.
- 10. Assistance, Generally.
 - (a) Assistance to the Aged, Blind, or Disabled. 68-1006.01 to 68-1010.
 - (b) Procedure and Penalties. 68-1017.02.
- 12. Social Services. 68-1206.
- 15. Disabled Persons and Family Support.
 - (a) Disabled Persons and Family Support Act. 68-1512.
- 17. Welfare Reform.
 - (a) Welfare Reform Act. 68-1724.

ARTICLE 9

MEDICAL ASSISTANCE ACT

Section

- 68-901. Medical Assistance Act; act, how cited.
- 68-911. Medical assistance; mandated and optional coverage; department; submit state plan amendment or waiver.
- 68-9,102. Long-term acute care hospitals; enroll as providers.
- 68-9,103. Long-term acute care hospitals; coverage; state plan amendment or waiver.
- 68-9,104. Critical access hospitals; rebase inpatient interim per diem rates.

68-901 Medical Assistance Act; act, how cited.

Sections 68-901 to 68-9,104 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; Laws 2020, LB956, § 1; Laws 2020, LB1002, § 43; Laws 2020, LB1053, § 1; Laws 2020, LB1158, § 1; Laws 2021, LB100, § 1; Laws 2023, LB227, § 57.

Operative date June 7, 2023.

68-911 Medical assistance; mandated and optional coverage; department; submit state plan amendment or waiver.

(1) Medical assistance shall include coverage for health care and related services as required under Title XIX of the federal Social Security Act, including, but not limited to:

- (a) Inpatient and outpatient hospital services;
- (b) Laboratory and X-ray services;
- (c) Nursing facility services;

- (d) Home health services;
- (e) Nursing services;
- (f) Clinic services;
- (g) Physician services;
- (h) Medical and surgical services of a dentist;
- (i) Nurse practitioner services;
- (j) Nurse midwife services;
- (k) Pregnancy-related services;
- (l) Medical supplies;
- (m) Mental health and substance abuse services;
- (n) Early and periodic screening and diagnosis and treatment services for children which shall include both physical and behavioral health screening, diagnosis, and treatment services;
- (o) Rural health clinic services; and
- (p) Federally qualified health center services.

(2) In addition to coverage otherwise required under this section, medical assistance may include coverage for health care and related services as permitted but not required under Title XIX of the federal Social Security Act, including, but not limited to:

- (a) Prescribed drugs;
- (b) Intermediate care facilities for persons with developmental disabilities;
- (c) Home and community-based services for aged persons and persons with disabilities;
- (d) Dental services;
- (e) Rehabilitation services;
- (f) Personal care services;
- (g) Durable medical equipment;
- (h) Medical transportation services;
- (i) Vision-related services;
- (j) Speech therapy services;
- (k) Physical therapy services;
- (l) Chiropractic services;
- (m) Occupational therapy services;
- (n) Optometric services;
- (o) Podiatric services;
- (p) Hospice services;
- (q) Mental health and substance abuse services;
- (r) Hearing screening services for newborn and infant children; and
- (s) Administrative expenses related to administrative activities, including outreach services, provided by school districts and educational service units to students who are eligible or potentially eligible for medical assistance.

(3) No later than July 1, 2009, the department shall submit a state plan amendment or waiver to the federal Centers for Medicare and Medicaid

Services to provide coverage under the medical assistance program for community-based secure residential and subacute behavioral health services for all eligible recipients, without regard to whether the recipient has been ordered by a mental health board under the Nebraska Mental Health Commitment Act to receive such services.

(4) On or before October 1, 2014, the department, after consultation with the State Department of Education, shall submit a state plan amendment to the federal Centers for Medicare and Medicaid Services, as necessary, to provide that the following are direct reimbursable services when provided by school districts as part of an individualized education program or an individualized family service plan: Early and periodic screening, diagnosis, and treatment services for children; medical transportation services; mental health services; nursing services; occupational therapy services; personal care services; physical therapy services; rehabilitation services; speech therapy and other services for individuals with speech, hearing, or language disorders; and vision-related services.

(5) No later than January 1, 2023, the department shall provide coverage for continuous glucose monitors under the medical assistance program for all eligible recipients who have a prescription for such device.

(6) On or before October 1, 2023, the department shall seek federal approval for federal matching funds from the federal Centers for Medicare and Medicaid Services through a state plan amendment or waiver to extend postpartum coverage for beneficiaries from sixty days to at least six months. Nothing in this subsection shall preclude the department from submitting a state plan amendment for twelve months.

Source: Laws 1965, c. 397, § 4, p. 1277; Laws 1967, c. 413, § 1, p. 1278; Laws 1969, c. 542, § 1, p. 2193; Laws 1993, LB 804, § 1; Laws 1993, LB 808, § 1; Laws 1996, LB 1044, § 315; Laws 1998, LB 1063, § 5; Laws 1998, LB 1073, § 60; Laws 2002, Second Spec. Sess., LB 8, § 1; R.S.1943, (2003), § 68-1019; Laws 2006, LB 1248, § 11; Laws 2009, LB603, § 1; Laws 2013, LB23, § 12; Laws 2013, LB556, § 5; Laws 2014, LB276, § 4; Laws 2022, LB698, § 1; Laws 2022, LB855, § 1; Laws 2023, LB227, § 61.
Operative date September 2, 2023.

Cross References

Nebraska Mental Health Commitment Act, see section 71-901.

68-9,102 Long-term acute care hospitals; enroll as providers.

The department shall enroll long-term acute care hospitals in Nebraska as providers eligible to receive funding under the medical assistance program.

Source: Laws 2023, LB227, § 58.
Operative date June 7, 2023.

68-9,103 Long-term acute care hospitals; coverage; state plan amendment or waiver.

No later than July 1, 2023, the department shall submit a state plan amendment or waiver to the federal Centers for Medicare and Medicaid Services to

provide coverage under the medical assistance program for long-term acute care hospitals.

Source: Laws 2023, LB227, § 59.
Operative date June 7, 2023.

68-9,104 Critical access hospitals; rebase inpatient interim per diem rates.

The department shall provide for rebasing inpatient interim per diem rates for critical access hospitals. The department shall rebase the rates every two years, and the most recent audited medicare cost report shall be used as the basis for the rebasing process within ninety days after receiving the cost report.

Source: Laws 2023, LB227, § 60.
Operative date September 2, 2023.

ARTICLE 10

ASSISTANCE, GENERALLY

(a) ASSISTANCE TO THE AGED, BLIND, OR DISABLED

Section

- 68-1006.01. Personal needs allowance; amount authorized.
- 68-1009. Hospital; reimbursement for certain services; conditions.
- 68-1010. Patients with complex health needs; transfer; pilot program.

(b) PROCEDURE AND PENALTIES

- 68-1017.02. Supplemental Nutrition Assistance Program; department; duties; state outreach plan; report; contents; categorical eligibility; legislative intent; increased benefits, when; person ineligible, when.

(a) ASSISTANCE TO THE AGED, BLIND, OR DISABLED

68-1006.01 Personal needs allowance; amount authorized.

The Department of Health and Human Services shall include in the standard of need for eligible aged, blind, and disabled persons seventy-five dollars per month for a personal needs allowance if such persons reside in an alternative living arrangement.

For purposes of this section, an alternative living arrangement shall include board and room, a boarding home, a certified adult family home, a licensed assisted-living facility, a licensed residential child-caring agency as defined in section 71-1926, a licensed center for the developmentally disabled, and a long-term care facility.

Source: Laws 1991, LB 57, § 1; Laws 1996, LB 1044, § 308; Laws 1997, LB 608, § 3; Laws 1999, LB 119, § 1; Laws 2000, LB 819, § 79; Laws 2013, LB265, § 37; Laws 2015, LB366, § 1; Laws 2023, LB227, § 62.
Operative date September 2, 2023.

68-1009 Hospital; reimbursement for certain services; conditions.

- (1) The state shall provide medicaid reimbursement to a hospital at one hundred percent of the statewide average nursing facility per diem rate for an individual if the individual: (a) Is enrolled in the medical assistance program; (b) has been admitted as an inpatient to such hospital; (c) no longer requires acute inpatient care and discharge planning as described in 42 C.F.R. 482.43; (d) requires nursing facility level of care upon discharge; and (e) is unable to be

transferred to a nursing facility due to a lack of available nursing facility beds available to the individual or, in cases where the transfer requires a guardian, has been approved for appointment of a public guardian and the State Court Administrator is unable to appoint a public guardian.

(2) Reimbursement for services shall be subject to federal approval.

Source: Laws 2023, LB227, § 63.

Operative date September 2, 2023.

68-1010 Patients with complex health needs; transfer; pilot program.

(1) The Department of Health and Human Services shall contract with, or provide a grant to, an eligible entity to implement a pilot program to facilitate the transfer of patients with complex health needs from eligible acute care hospitals to appropriate post-acute care settings, including facilities that provide skilled nursing or long-term care.

(2) The purposes of the pilot program are to ensure that:

(a) Patients with complex health needs are able to access timely transition from an acute care hospital to a post-acute care setting;

(b) Patients receive the appropriate type of care at the appropriate time to best meet their needs; and

(c) Acute-care hospitals have available capacity to meet the needs of patients.

(3) For purposes of this section:

(a) Eligible acute care hospital means a facility that is not designated as a critical access hospital by the federal Centers for Medicare and Medicaid Services and must satisfactorily demonstrate to the eligible entity that it has reached or exceeded eighty percent of available staffed capacity for adult intensive-care-unit beds and acute care inpatient medical-surgical beds;

(b) Eligible entity means a nonprofit statewide association whose members include eligible acute care hospitals; and

(c) Patient means a person who is medically stable and who the provider believes, with a reasonable medical probability and in accordance with recognized medical standards, is safe to be discharged or transferred and is not expected to have his or her condition negatively impacted during, or as a result of, the discharge or transfer.

(4) The eligible entity responsible for developing the pilot program shall:

(a) Determine criteria to define patients with complex health needs;

(b) Develop a process for eligible acute care hospitals to determine capacity and the manner and frequency of reporting changes in capacity;

(c) Develop a process to ensure funding is utilized for the purposes described in this section and in compliance with all applicable state and federal laws;

(d) Include regular consultation with the department and representatives of acute care hospitals, skilled nursing facilities, and nursing facilities; and

(e) Include quarterly updates to the department.

(5) The pilot program may include direct payments to post-acute care facilities that support care to patients with complex health needs.

(6) Funding utilized under the pilot program shall comply with all medicaid and medicare reimbursement policies for skilled nursing facilities, nursing facilities, and swing-bed hospitals.

(7) It is the intent of the Legislature to appropriate one million dollars from the General Fund to carry out this section. No more than two and one-half percent of the contracted amount shall be used to administer the pilot program.

Source: Laws 2023, LB227, § 64.

Operative date September 2, 2023.

(b) PROCEDURE AND PENALTIES

68-1017.02 Supplemental Nutrition Assistance Program; department; duties; state outreach plan; report; contents; categorical eligibility; legislative intent; increased benefits, when; person ineligible, when.

(1)(a) The Department of Health and Human Services shall apply for and utilize to the maximum extent possible, within limits established by the Legislature, any and all appropriate options available to the state under the federal Supplemental Nutrition Assistance Program and regulations adopted under such program to maximize the number of Nebraska residents being served under such program within such limits. The department shall seek to maximize federal funding for such program and minimize the utilization of General Funds for such program and shall employ the personnel necessary to determine the options available to the state and issue the report to the Legislature required by subdivision (b) of this subsection.

(b) The department shall submit electronically an annual report to the Health and Human Services Committee of the Legislature by December 1 on efforts by the department to carry out the provisions of this subsection. Such report shall provide the committee with all necessary and appropriate information to enable the committee to conduct a meaningful evaluation of such efforts. Such information shall include, but not be limited to, a clear description of various options available to the state under the federal Supplemental Nutrition Assistance Program, the department's evaluation of and any action taken by the department with respect to such options, the number of persons being served under such program, and any and all costs and expenditures associated with such program.

(c) The Health and Human Services Committee of the Legislature, after receipt and evaluation of the report required in subdivision (b) of this subsection, shall issue recommendations to the department on any further action necessary by the department to meet the requirements of this section.

(2)(a) The department shall develop a state outreach plan to promote access by eligible persons to benefits of the Supplemental Nutrition Assistance Program. The plan shall meet the criteria established by the Food and Nutrition Service of the United States Department of Agriculture for approval of state outreach plans. The Department of Health and Human Services may apply for and accept gifts, grants, and donations to develop and implement the state outreach plan.

(b) For purposes of developing and implementing the state outreach plan, the department shall partner with one or more counties or nonprofit organizations. If the department enters into a contract with a nonprofit organization relating to the state outreach plan, the contract may specify that the nonprofit organization is responsible for seeking sufficient gifts, grants, or donations necessary for the development and implementation of the state outreach plan and may additionally specify that any costs to the department associated with the award

and management of the contract or the implementation or administration of the state outreach plan shall be paid out of private or federal funds received for development and implementation of the state outreach plan.

(c) The department shall submit the state outreach plan to the Food and Nutrition Service of the United States Department of Agriculture for approval on or before August 1, 2011, and shall request any federal matching funds that may be available upon approval of the state outreach plan. It is the intent of the Legislature that the State of Nebraska and the Department of Health and Human Services use any additional public or private funds to offset costs associated with increased caseload resulting from the implementation of the state outreach plan.

(d) The department shall be exempt from implementing or administering a state outreach plan under this subsection, but not from developing such a plan, if it does not receive private or federal funds sufficient to cover the department's costs associated with the implementation and administration of the plan, including any costs associated with increased caseload resulting from the implementation of the plan.

(3)(a) It is the intent of the Legislature that:

(i) Hard work be rewarded and no disincentives to work exist for Supplemental Nutrition Assistance Program participants;

(ii) Supplemental Nutrition Assistance Program participants be enabled to advance in employment, through greater earnings or new, better-paying employment;

(iii) Participants in employment and training pilot programs be able to maintain Supplemental Nutrition Assistance Program benefits while seeking employment with higher wages that allow them to reduce or terminate such program benefits; and

(iv) Nebraska better utilize options under the Supplemental Nutrition Assistance Program that other states have implemented to encourage work and employment.

(b)(i) The department shall create a TANF-funded program or policy that, in compliance with federal law, establishes categorical eligibility for federal food assistance benefits pursuant to the Supplemental Nutrition Assistance Program to maximize the number of Nebraska residents being served under such program in a manner that does not increase the current gross income eligibility limit except as otherwise provided in subdivision (3)(b)(ii) of this section.

(ii) Except as otherwise provided in this subdivision, such TANF-funded program or policy shall increase the gross income eligibility limit to one hundred sixty-five percent of the federal Office of Management and Budget income poverty guidelines as allowed under federal law and under 7 C.F.R. 273.2(j)(2), as such law and regulation existed on April 1, 2021, but shall not increase the net income eligibility limit. Beginning October 1, 2025, the gross income eligibility limit shall return to the amount used prior to the increase required by this subdivision. The department shall evaluate the TANF-funded program or policy created pursuant to this subsection and provide a report electronically to the Health and Human Services Committee of the Legislature and the Legislative Fiscal Analyst on or before December 15 of each year regarding the gross income eligibility limit and whether it maximizes the number of Nebraska residents being served under the program or policy. The

evaluation shall include an identification and determination of additional administrative costs resulting from the increase to the gross income eligibility limit, a recommendation regarding the gross income eligibility limit, and a determination of the availability of federal funds for the program or policy.

(iii) To the extent federal funds are available to the Department of Labor for the SNAP Next Step Program, until September 30, 2023, any recipient of Supplemental Nutrition Assistance Program benefits whose household income is between one hundred thirty-one and one hundred sixty-five percent of the federal Office of Management and Budget income poverty guidelines and who is not exempt from work participation requirements shall be encouraged to participate in the SNAP Next Step Program administered by the Department of Labor if the recipient is eligible to participate in the program and the program's services are available in the county in which such household is located. It is the intent of the Legislature that no General Funds be utilized by the Department of Labor for the processes outlined in this subdivision (iii). For purposes of this section, SNAP Next Step Program means a partnership program between the Department of Health and Human Services and the Department of Labor to assist under-employed and unemployed recipients of Supplemental Nutrition Assistance Program benefits in finding self-sufficient employment.

(iv) Such TANF-funded program or policy shall eliminate all asset limits for eligibility for federal food assistance benefits, except that the total of liquid assets which includes cash on hand and funds in personal checking and savings accounts, money market accounts, and share accounts shall not exceed twenty-five thousand dollars pursuant to the Supplemental Nutrition Assistance Program, as allowed under federal law and under 7 C.F.R. 273.2(j)(2).

(v) This subsection becomes effective only if the department receives funds pursuant to federal participation that may be used to implement this subsection.

(c) For purposes of this subsection:

(i) Federal law means the federal Food and Nutrition Act of 2008, 7 U.S.C. 2011 et seq., and regulations adopted under the act; and

(ii) TANF means the federal Temporary Assistance for Needy Families program established in 42 U.S.C. 601 et seq.

(4)(a) Within the limits specified in this subsection, the State of Nebraska opts out of the provision of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as such act existed on January 1, 2009, that eliminates eligibility for the Supplemental Nutrition Assistance Program for any person convicted of a felony involving the possession, use, or distribution of a controlled substance.

(b) A person shall be ineligible for Supplemental Nutrition Assistance Program benefits under this subsection if he or she (i) has had three or more felony convictions for the possession or use of a controlled substance or (ii) has been convicted of a felony involving the sale or distribution of a controlled substance or the intent to sell or distribute a controlled substance. A person with one or two felony convictions for the possession or use of a controlled substance shall only be eligible to receive Supplemental Nutrition Assistance Program benefits under this subsection if he or she is participating in or has completed a state-licensed or nationally accredited substance abuse treatment program since the

date of conviction. The determination of such participation or completion shall be made by the treatment provider administering the program.

Source: Laws 2003, LB 667, § 22; Laws 2005, LB 301, § 2; Laws 2008, LB171, § 1; Laws 2009, LB288, § 28; Laws 2011, LB543, § 1; Laws 2012, LB782, § 95; Laws 2021, LB108, § 1; Laws 2023, LB227, § 65.

Operative date September 2, 2023.

ARTICLE 12 SOCIAL SERVICES

Section

68-1206. Social services; administration; contracts; payments; duties; federal Child Care Subsidy program; participation; requirements; funding; evaluation.

68-1206 Social services; administration; contracts; payments; duties; federal Child Care Subsidy program; participation; requirements; funding; evaluation.

(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.

(2)(a) 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. 9857 et seq., as such sections existed on January 1, 2023, and provide child care assistance to families with incomes up to (i) one hundred eighty-five percent of the federal poverty level prior to October 1, 2026, or (ii) one hundred thirty percent of the federal poverty level on and after October 1, 2026.

(b) 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. A child care provider seeking to participate in the federal Child Care Subsidy program shall comply with the criminal history record information check requirements of the Child Care Licensing Act. 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 eighty-five percent of the federal poverty level prior to October 1, 2026, or one hundred thirty percent of the federal poverty level on and after October 1, 2026, 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 two hundred percent of the federal poverty level prior to October 1, 2026, or one hundred eighty-five percent of the federal poverty level on and after October 1, 2026. 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.

(c) For the period beginning July 1, 2021, through September 30, 2026, funds provided to the State of Nebraska pursuant to the Child Care and Development Block Grant Act of 1990, 42 U.S.C. 9857 et seq., as such act and sections existed on January 1, 2023, shall be used to pay the costs to the state resulting from the income eligibility changes made in subdivisions (2)(a) and (b) of this section by Laws 2021, LB485. If the available amount of such funds is insufficient to pay such costs, then funds provided to the state for the Temporary Assistance for Needy Families program established in 42 U.S.C. 601 et seq. may also be used. No General Funds shall be used to pay the costs to the state, other than administration costs, resulting from the income eligibility changes made in subdivisions (2)(a) and (b) of this section by Laws 2021, LB485, for the period beginning July 1, 2021, through September 30, 2026.

(d) The Department of Health and Human Services shall collaborate with a private nonprofit organization with expertise in early childhood care and education for an independent evaluation of the income eligibility changes made in subdivisions (2)(a) and (b) of this section by Laws 2021, LB485, if private funding is made available for such purpose. The evaluation shall be completed by July 1, 2024, and shall be submitted electronically to the department and to the Health and Human Services Committee of the Legislature.

(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; Laws 2020, LB1185, § 1; Laws 2021, LB485, § 1; Laws 2023, LB227, § 66.

Operative date September 2, 2023.

Cross References

Child Care Licensing Act, see section 71-1908.

Step Up to Quality Child Care Act, see section 71-1952.

ARTICLE 15

DISABLED PERSONS AND FAMILY SUPPORT

(a) DISABLED PERSONS AND FAMILY SUPPORT ACT

Section

68-1512. Support; maximum allowance; limitations; appropriations; legislative intent.

(a) DISABLED PERSONS AND FAMILY SUPPORT ACT

68-1512 Support; maximum allowance; limitations; appropriations; legislative intent.

(1) The maximum support allowable under sections 68-1501 to 68-1519 shall be (a) four hundred dollars per month per disabled person averaged over any one-year period or (b) four hundred dollars per month per family averaged over any one-year period for the first disabled family member plus two hundred dollars per month averaged over any one-year period for each additional disabled family member. The department shall not provide support, pursuant to sections 68-1501 to 68-1519, to any family or disabled person whose gross income less the cost of medical or other care specifically related to the disability exceeds the median family income for a family of four in Nebraska, except that the department shall make adjustments for the actual size of the family.

(2) It is the intent of the Legislature that any appropriation relating to this section be increased accordingly so that each person who received support prior to September 2, 2023, will continue to receive support.

Source: Laws 1981, LB 389, § 12; Laws 1985, LB 87, § 2; Laws 2023, LB227, § 67.

Operative date September 2, 2023.

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 two hundred percent of the federal poverty level prior to October 1, 2026, or one hundred eighty-five percent of the federal poverty level on and after October 1, 2026. 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; Laws 2021, LB485, § 2; Laws 2023, LB227, § 68.
Operative date September 2, 2023.

CHAPTER 69

PERSONAL PROPERTY

Article.

- 21. Consumer Rental Purchase Agreements. 69-2103 to 69-2112.
- 24. Guns.
 - (b) Firearm Information. 69-2426.
 - (c) Concealed Handgun Permit Act. 69-2429 to 69-2445.

ARTICLE 21

CONSUMER RENTAL PURCHASE AGREEMENTS

Section

- 69-2103. Terms, defined.
- 69-2104. Lessor; disclosures required.
- 69-2112. Advertisement; requirements.

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, 2023, and 15 U.S.C. 1602(h), as such section existed on January 1, 2023, or a lease which constitutes a consumer lease as defined in 12 C.F.R. 1013.2, as such regulation existed on January 1, 2023. 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; Laws 2020, LB909, § 49; Laws 2021, LB363, § 30; Laws 2022, LB707, § 44; Laws 2023, LB92, § 77.

Operative date June 7, 2023.

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 federal Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act existed on January 1, 2023, 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 federal Consumer Credit Protection Act, 15 U.S.C. 1667a, as such section existed on January 1, 2023, 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; Laws 2020, LB909, § 50; Laws 2021, LB363, § 31; Laws 2022, LB707, § 45; Laws 2023, LB92, § 78.

Operative date June 7, 2023.

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 federal Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act existed on January 1, 2023, 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; Laws 2020, LB909, § 51; Laws 2021, LB363, § 32; Laws 2022, LB707, § 46; Laws 2023, LB92, § 79.

Operative date June 7, 2023.

ARTICLE 24

GUNS

(b) FIREARM INFORMATION

Section

69-2426. Firearm dealer; distribution of information; Firearm Information Fund; created.

(c) CONCEALED HANDGUN PERMIT ACT

69-2429. Terms, defined.

69-2432. Nebraska State Patrol; handgun training and safety courses and instructors; duties; certificate of completion of course; fee.

69-2435. Permitholder; continuing requirements; return of permit; when.

69-2436. Permit; period valid; fee; renewal; fee; notice of expiration.

69-2439. Permit; application for revocation; prosecution; fine; costs.

69-2440. Transferred to section 28-1202.04.

69-2441. Transferred to section 28-1202.01.

69-2442. Injury to person or damage to property; permitholder; report required; violation; penalty.

69-2443. Violations; revocation of permit; when.

69-2445. Carrying concealed weapon under other law; act; how construed.

(b) FIREARM INFORMATION

69-2426 Firearm dealer; distribution of information; Firearm Information Fund; created.

(1) Any firearm dealer licensed pursuant to 18 U.S.C. 923 shall distribute to all firearm purchasers:

(a) Information developed by the Department of Health and Human Services regarding the dangers of leaving loaded firearms unattended around children; and

(b) Information on suicide prevention, including materials that provide evidence-based information aligned with best practices in suicide prevention. Such materials shall include information on the 988 Suicide and Crisis Lifeline or other similar resources. The Nebraska State Patrol shall maintain and publish a list of materials that may be used to comply with this subdivision.

(2) There is hereby created the Firearm Information Fund. Private contributions shall be credited by the State Treasurer to such fund for the implementation of the provisions of this section.

Source: Laws 1993, LB 117, § 1; Laws 1996, LB 1044, § 367; Laws 2023, LB50, § 33.
Effective date September 2, 2023.

(c) CONCEALED HANDGUN PERMIT ACT

69-2429 Terms, defined.

For purposes of the Concealed Handgun Permit Act:

(1) Concealed handgun means a handgun that is entirely obscured from view. If any part of the handgun is capable of being seen or observed by another person, it is not a concealed handgun;

(2) Handgun means any firearm with a barrel less than sixteen inches in length or any firearm designed to be held and fired by the use of a single hand;

(3) Peace officer means any town marshal, chief of police or local police officer, sheriff or deputy sheriff, the Superintendent of Law Enforcement and Public Safety, any officer of the Nebraska State Patrol, any member of the National Guard on active service by direction of the Governor during periods of emergency or civil disorder, any Game and Parks Commission conservation officer, and all other persons with similar authority to make arrests;

(4) Permitholder means an individual holding a current and valid permit to carry a concealed handgun issued pursuant to the Concealed Handgun Permit Act; and

(5) Proof of training means an original document or certified copy of a document, supplied by an applicant, that certifies that he or she either:

(a) Within the previous three years, has successfully completed a handgun training and safety course approved by the Nebraska State Patrol pursuant to section 69-2432; or

(b) Is a member of the active or reserve armed forces of the United States or a member of the National Guard and has had handgun training within the previous three years which meets the minimum safety and training requirements of section 69-2432.

Source: Laws 2006, LB 454, § 3; Laws 2007, LB463, § 1177; Laws 2018, LB1034, § 49; Laws 2023, LB77, § 16.
Effective date September 2, 2023.

69-2432 Nebraska State Patrol; handgun training and safety courses and instructors; duties; certificate of completion of course; fee.

(1) The Nebraska State Patrol shall prepare and publish minimum training and safety requirements for and adopt and promulgate rules and regulations governing handgun training and safety courses and handgun training and safety course instructors. Minimum safety and training requirements for a handgun training and safety course shall include, but not be limited to:

(a) Knowledge and safe handling of a handgun;

(b) Knowledge and safe handling of handgun ammunition;

(c) Safe handgun shooting fundamentals;

(d) A demonstration of competency with a handgun with respect to the minimum safety and training requirements;

(e) Knowledge of federal, state, and local laws pertaining to the purchase, ownership, transportation, and possession of handguns;

(f) Knowledge of federal, state, and local laws pertaining to the use of a handgun, including, but not limited to, use of a handgun for self-defense and laws relating to justifiable homicide and the various degrees of assault;

(g) Knowledge of ways to avoid a criminal attack and to defuse or control a violent confrontation;

(h) Knowledge of proper storage practices for handguns and ammunition, including storage practices which would reduce the possibility of accidental injury to a child; and

(i) Suicide prevention training. Such training shall consist of evidence-based information aligned with best practices in suicide prevention.

(2) A person or entity conducting a handgun training and safety course and the course instructors shall be approved by the patrol before operation. The patrol shall issue a certificate evidencing its approval.

(3) A certificate of completion of a handgun training and safety course shall be issued by the person or entity conducting a handgun training and safety course to persons successfully completing the course. The certificate of completion shall also include certification from the instructor that the person completing the course does not suffer from a readily discernible physical infirmity that prevents the person from safely handling a handgun.

(4) Any fee for participation in a handgun training and safety course is the responsibility of the applicant.

Source: Laws 2006, LB 454, § 6; Laws 2023, LB50, § 34.
Effective date September 2, 2023.

69-2435 Permitholder; continuing requirements; return of permit; when.

A permitholder shall continue to meet the requirements of section 69-2433 during the time he or she holds the permit, except as provided in subsection (2) of section 69-2443. If, during such time, a permitholder does not continue to meet one or more of the requirements, the permitholder shall return his or her permit to the Nebraska State Patrol for revocation. If a permitholder does not return his or her permit, the permitholder is subject to having his or her permit revoked under section 69-2439.

Source: Laws 2006, LB 454, § 9; Laws 2012, LB807, § 3; Laws 2023, LB77, § 17.
Effective date September 2, 2023.

69-2436 Permit; period valid; fee; renewal; fee; notice of expiration.

(1) A permit to carry a concealed handgun is valid throughout the state for a period of five years after the date of issuance. The fee for issuing a permit is one hundred dollars.

(2) The Nebraska State Patrol shall renew a permitholder's permit to carry a concealed handgun for a renewal period of five years, subject to continuing compliance with the requirements of section 69-2433, except as provided in subsection (2) of section 69-2443. The renewal fee is fifty dollars, and renewal

may be applied for no earlier than four months before expiration of the permit and no later than thirty business days after the date of expiration of the permit. At least four months before expiration of a permit to carry a concealed handgun, the Nebraska State Patrol shall send to the permitholder by United States mail or electronically notice of expiration of the permit.

(3) The applicant shall submit the fee with the application to the Nebraska State Patrol. The fee shall be remitted to the State Treasurer for credit to the Nebraska State Patrol Cash Fund.

Source: Laws 2006, LB 454, § 10; Laws 2007, LB322, § 17; Laws 2012, LB807, § 4; Laws 2021, LB236, § 4; Laws 2023, LB77, § 18.
Effective date September 2, 2023.

69-2439 Permit; application for revocation; prosecution; fine; costs.

(1) Any peace officer having probable cause to believe that a permitholder is no longer in compliance with one or more requirements of section 69-2433, except as provided in subsection (2) of section 69-2443, shall bring an application for revocation of the permit to be prosecuted as provided in subsection (2) of this section.

(2) It is the duty of the county attorney or his or her deputy of the county in which such permitholder resides to prosecute a case for the revocation of a permit to carry a concealed handgun brought pursuant to subsection (1) of this section. In case the county attorney refuses or is unable to prosecute the case, the duty to prosecute shall be upon the Attorney General or his or her assistant.

(3) The case shall be prosecuted as a civil case, and the permit shall be revoked upon a showing by a preponderance of the evidence that the permitholder does not meet one or more of the requirements of section 69-2433, except as provided in subsection (2) of section 69-2443.

(4) A person who has his or her permit revoked under this section may be fined up to one thousand dollars and shall be charged with the costs of the prosecution. The money collected under this subsection as an administrative fine shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 2006, LB 454, § 13; Laws 2012, LB807, § 5; Laws 2023, LB77, § 19.
Effective date September 2, 2023.

69-2440 Transferred to section 28-1202.04.

69-2441 Transferred to section 28-1202.01.

69-2442 Injury to person or damage to property; permitholder; report required; violation; penalty.

(1) Any time the discharge of a handgun carried by a permitholder pursuant to the Concealed Handgun Permit Act results in injury to a person or damage to property, the permitholder shall make a report of such incident to the Nebraska State Patrol on a form designed and distributed by the Nebraska State Patrol. The information from the report shall be maintained as provided in section 69-2444.

(2) A violation of this section is a Class III misdemeanor for a first offense and a Class I misdemeanor for any second or subsequent offense.

Source: Laws 2006, LB 454, § 16; Laws 2023, LB77, § 20.
Effective date September 2, 2023.

69-2443 Violations; revocation of permit; when.

(1) A permit holder convicted of a violation of section 28-1202.03, 28-1202.04, or 69-2442 may have his or her permit revoked.

(2) A permit holder convicted of a violation of section 28-1202.01 or 28-1202.02 that occurred on property owned by the state or any political subdivision of the state may also have his or her permit revoked. A permit holder convicted of a violation of section 28-1202.01 or 28-1202.02 that did not occur on property owned by the state or any political subdivision of the state shall not have his or her permit revoked for a first offense but may have his or her permit revoked for any second or subsequent offense.

Source: Laws 2006, LB 454, § 17; Laws 2007, LB97, § 2; Laws 2012, LB807, § 6; Laws 2023, LB77, § 21.
Effective date September 2, 2023.

69-2445 Carrying concealed weapon under other law; act; how construed.

Nothing in the Concealed Handgun Permit Act prevents a person not otherwise prohibited from possessing or carrying a concealed handgun by state law from carrying a concealed weapon without a permit.

Source: Laws 2006, LB 454, § 19; Laws 2023, LB77, § 22.
Effective date September 2, 2023.

CHAPTER 70

POWER DISTRICTS AND CORPORATIONS

Article.

- 6. Public Power and Irrigation Districts. 70-619.
- 10. Nebraska Power Review Board. 70-1001 to 70-1025.

ARTICLE 6

PUBLIC POWER AND IRRIGATION DISTRICTS

Section

- 70-619. Board of directors; qualifications; eligibility to serve.

70-619 Board of directors; qualifications; eligibility to serve.

(1) The corporate powers of the district shall be vested in and exercised by the board of directors of the district. No person shall be qualified to hold office as a member of the board of directors unless (a) he or she is a registered voter (i) of such chartered territory, (ii) of the subdivision from which a director is to be elected if such chartered territory is subdivided for election purposes as provided in subsection (1), (2), or (3) of section 70-612, or (iii) of one of the combined subdivisions from which directors are to be elected at large as provided in section 70-612 or (b) he or she is a retail customer duly certified in accordance with subsection (3) of section 70-604.03.

(2) No person who is a full-time or part-time employee of the district shall be eligible to serve as a member of the board of directors of that district. A member of a governing body of any one of the municipalities within the areas of the district may not serve on the original board of directors under sections 70-603 to 70-609.

Source: Laws 1933, c. 86, § 5, p. 345; C.S.Supp.,1941, § 70-705; Laws 1943, c. 146, § 2(1), p. 518; R.S.1943, § 70-619; Laws 1944, Spec. Sess., c. 5, § 1(1), p. 106; Laws 1957, c. 127, § 2, p. 440; Laws 1963, c. 396, § 1, p. 1258; Laws 1967, c. 418, § 6, p. 1288; Laws 1973, LB 364, § 4; Laws 1982, LB 198, § 4; Laws 1983, LB 15, § 1; Laws 1985, LB 2, § 5; Laws 1986, LB 949, § 13; Laws 1991, LB 3, § 1; Laws 1994, LB 76, § 585; Laws 2013, LB646, § 4; Laws 2015, LB177, § 1; Laws 2023, LB565, § 42.
Operative date September 2, 2023.

Cross References

Eligibility, additional requirements, see section 70-610.

ARTICLE 10

NEBRASKA POWER REVIEW BOARD

Section

- 70-1001. Declaration of policy.
- 70-1001.01. Terms, defined.
- 70-1025. Power supply plan; contents; filing; annual report.

70-1001 Declaration of policy.

(1) In order to provide the citizens of the state with adequate and reliable electric service at as low overall cost as possible, consistent with sound business practices, it is the policy of this state to avoid and eliminate conflict and competition between public power districts, public power and irrigation districts, individual municipalities, registered groups of municipalities, electric membership associations, and cooperatives in furnishing electric energy to retail and wholesale customers, to avoid and eliminate the duplication of facilities and resources which result therefrom, and to facilitate the settlement of rate disputes between suppliers of electricity.

(2) It is also the policy of the state to prepare for an evolving retail electricity market if certain conditions are met which indicate that retail competition is in the best interests of the citizens of the state. The determination on the timing and form of competitive markets is a matter properly left to the states as each state must evaluate the costs and benefits of a competitive retail market based on its own unique conditions. Consequently, there is a need for the state to monitor whether the conditions necessary for its citizens to benefit from retail competition exist.

(3) It is also the policy of the state to encourage and allow opportunities for private developers to develop, own, and operate renewable energy facilities intended for sale at wholesale under a statutory framework which protects the ratepayers of consumer-owned utility systems operating in the state from subsidizing the costs of such export facilities through their rates.

Source: Laws 1963, c. 397, § 1, p. 1259; Laws 1971, LB 349, § 4; Laws 1981, LB 181, § 42; Laws 2000, LB 901, § 6; Laws 2010, LB1048, § 2; Laws 2016, LB824, § 2; Laws 2023, LB565, § 43.
Operative date September 2, 2023.

70-1001.01 Terms, defined.

For purposes of sections 70-1001 to 70-1028, unless the context otherwise requires:

- (1) Board means the Nebraska Power Review Board;
- (2) Electric supplier or supplier of electricity means any legal entity supplying, producing, or distributing electricity within the state for sale at wholesale or retail;
- (3) Private electric supplier means an electric supplier producing electricity from a privately developed renewable energy generation facility that is not a public power district, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, any other governmental entity, or any combination thereof;
- (4) Privately developed renewable energy generation facility means a facility that (a) generates electricity using solar, wind, geothermal, biomass, landfill gas, or biogas, including all electrically connected equipment used to produce, collect, and store the facility output up to and including the transformer that steps up the voltage to sixty thousand volts or greater, and including supporting structures, buildings, and roads, unless otherwise agreed to in a joint transmission development agreement, (b) is developed, constructed, and owned, in whole or in part, by one or more private electric suppliers, and (c) is not wholly

owned by a public power district, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, any other governmental entity, or any combination thereof;

(5) Regional transmission organization means an entity independent from those entities generating or marketing electricity at wholesale or retail, which has operational control over the electric transmission lines in a designated geographic area in order to reduce constraints in the flow of electricity and ensure that all power suppliers have open access to transmission lines for the transmission of electricity;

(6) Reliable or reliability means the ability of an electric supplier to supply the aggregate electric power and energy requirements of its electricity consumers in Nebraska at all times under normal operating conditions, taking into account scheduled and unscheduled outages, including sudden disturbances or unanticipated loss of system components that are to be reasonably expected for any electric utility following prudent utility practices, recognizing certain weather conditions and other contingencies may cause outages at the distribution, transmission, and generation level;

(7) Representative organization means an organization designated by the board and organized for the purpose of providing joint planning and encouraging maximum cooperation and coordination among electric suppliers. Such organization shall represent electric suppliers owning a combined electric generation plant accredited capacity of at least ninety percent of the total electric generation plant accredited capacity constructed and in operation within the state;

(8) State means the State of Nebraska; and

(9) Unbundled retail rates means the separation of utility bills into the individual price components for which an electric supplier charges its retail customers, including, but not limited to, the separate charges for the generation, transmission, and distribution of electricity.

Source: Laws 1981, LB 302, § 1; R.S.1943, (1996), § 70-1023; Laws 2000, LB 901, § 7; Laws 2003, LB 65, § 1; Laws 2010, LB1048, § 3; Laws 2011, LB208, § 1; Laws 2016, LB824, § 3; Laws 2023, LB565, § 44.

Operative date September 2, 2023.

70-1025 Power supply plan; contents; filing; annual report.

(1) The representative organization shall file with the board a coordinated long-range power supply plan containing the following information:

(a) The identification of all electric generation plants operating or authorized for construction within the state that have a rated capacity of at least twenty-five thousand kilowatts;

(b) The identification of all transmission lines located or authorized for construction within the state that have a rated capacity of at least two hundred thirty kilovolts; and

(c) The identification of all additional planned electric generation and transmission requirements needed to serve estimated power supply demands within the state for a period of twenty years.

(2) The representative organization shall file with the board the coordinated long-range power supply plan specified in subsection (1) of this section, and the board shall determine the date on which such report is to be filed, except that such report shall not be required to be filed more often than biennially.

(3) An annual load and capability report shall be filed with the board by the representative organization. The report shall include:

(a) Statewide utility load forecasts and the resources available to satisfy the loads over a twenty-year period; and

(b) Such other information as the board requests if such request is submitted in writing to the representative organization, is consistent with the board's statutory responsibilities, and can be performed at a reasonable cost.

(4) The annual load and capability report shall be filed on dates specified by the board.

Source: Laws 1981, LB 302, § 3; Laws 1986, LB 948, § 1; Laws 2023, LB565, § 45.

Operative date September 2, 2023.

CHAPTER 71

PUBLIC HEALTH AND WELFARE

Article.

- 2. Practice of Barbering. 71-222.
- 4. Health Care Facilities. 71-401 to 71-475.
- 6. Vital Statistics. 71-612.
- 8. Behavioral Health Services.
 - (a) Nebraska Behavioral Health Services Act. 71-801.
 - (b) Certified Community Behavioral Health Clinic Act. 71-832 to 71-837.
- 17. Nurses.
 - (h) Nebraska Center for Nursing Act. 71-1797, 71-1798.
- 19. Care of Children.
 - (a) Foster Care Licensure. 71-1902.
 - (d) Step Up to Quality Child Care Act. 71-1962.
- 20. Hospitals.
 - (q) National Provider Identifier. 71-20,122.
- 24. Drugs.
 - (m) Prescription Drug Safety Act. 71-2461.01, 71-2479.
- 34. Reduction in Morbidity and Mortality.
 - (b) Child and Maternal Deaths. 71-3404 to 71-3410.
 - (d) Overdose Fatalities. 71-3422 to 71-3437.
- 53. Drinking Water.
 - (c) Lead Service Lines. 71-5328.
- 56. Rural Health.
 - (d) Rural Health Systems and Professional Incentive Act. 71-5661 to 71-5669.01.
- 64. Building Construction. 71-6401, 71-6408.
- 69. Abortion.
 - (b) Preborn Child Protection Act. 71-6912 to 71-6917.
- 71. Critical Incident Stress Management. 71-7104.
- 73. Let Them Grow Act. 71-7301 to 71-7307.
- 76. Health Care.
 - (b) Nebraska Health Care Funding Act. 71-7611.
- 82. Statewide Trauma System Act. 71-8202 to 71-8252.

ARTICLE 2

PRACTICE OF BARBERING

Section

71-222. Board; officers; compensation; expenses; records; reports; employees.

71-222 Board; officers; compensation; expenses; records; reports; employees.

The board shall annually elect a president and vice president, and the board shall appoint a director who shall serve as secretary of the board. The board shall be furnished with suitable quarters in the State Capitol or elsewhere. It shall adopt and use a common seal for the authentication of its orders and records. The secretary of the board shall keep a record of all proceedings of the board. A majority of the board, in a meeting duly assembled, may perform and exercise all the duties and powers delegated to the board. Each member of the board shall receive a compensation of one hundred fifty dollars per diem and shall be reimbursed for expenses incurred in the discharge of such member's duties as provided in sections 81-1174 to 81-1177, not to exceed two thousand

dollars per annum. Salaries and expenses shall be paid only from the fund created by fees collected in the administration of the Barber Act, and no other funds or state money except as collected in the administration of the act shall be drawn upon to pay the expense of administration. The board shall report each year to the Governor a full statement of its receipts and expenditures and also a full statement of its work during the year, together with such recommendations as it may deem expedient. The board may employ one field inspector and such other inspectors, clerks, and assistants as it may deem necessary to carry out the act and prescribe their qualifications. No owner, agent, or employee of any barber school shall be eligible for membership on the board.

Source: Laws 1927, c. 163, § 19, p. 435; Laws 1933, c. 121, § 2, p. 491; R.S.1943, § 71-222; Laws 1957, c. 294, § 9, p. 1057; Laws 1963, c. 409, § 25, p. 1326; Laws 1971, LB 1020, § 26; Laws 1972, LB 1183, § 5; Laws 1978, LB 722, § 16; Laws 1981, LB 204, § 113; Laws 1993, LB 226, § 8; Laws 2020, LB381, § 59; Laws 2023, LB227, § 69.

Operative date September 2, 2023.

ARTICLE 4

HEALTH CARE FACILITIES

Section

- 71-401. Act, how cited.
 71-403. Definitions, where found.
 71-417. Home health agency, defined.
 71-424.04. Palliative care, defined.
 71-475. Drug or medication; provided to patient upon discharge; records; label; documentation.

71-401 Act, how cited.

Sections 71-401 to 71-479 shall be known and may be cited as the Health Care Facility Licensure Act.

Source: Laws 2000, LB 819, § 1; Laws 2001, LB 398, § 65; Laws 2004, LB 1005, § 41; Laws 2007, LB203, § 1; Laws 2009, LB288, § 31; Laws 2010, LB849, § 19; Laws 2010, LB999, § 1; Laws 2011, LB34, § 1; Laws 2011, LB542, § 1; Laws 2012, LB1077, § 1; Laws 2013, LB459, § 1; Laws 2015, LB37, § 68; Laws 2016, LB698, § 17; Laws 2016, LB722, § 12; Laws 2017, LB166, § 19; Laws 2018, LB731, § 92; Laws 2018, LB1034, § 50; Laws 2020, LB1052, § 5; Laws 2020, LB1053, § 3; Laws 2022, LB697, § 1; Laws 2023, LB227, § 70.

Operative date September 2, 2023.

71-403 Definitions, where found.

For purposes of the Health Care Facility Licensure Act, unless the context otherwise requires, the definitions found in sections 71-404 to 71-431 shall apply.

Source: Laws 2000, LB 819, § 3; Laws 2007, LB203, § 2; Laws 2010, LB849, § 20; Laws 2015, LB37, § 69; Laws 2016, LB698, § 18; Laws 2018, LB731, § 93; Laws 2018, LB1034, § 51; Laws 2020,

LB1052, § 6; Laws 2020, LB1053, § 4; Laws 2022, LB697, § 2;
Laws 2023, LB227, § 71.
Operative date September 2, 2023.

71-417 Home health agency, defined.

(1) Home health agency means a person or any legal entity which provides skilled nursing care or a minimum of one other therapeutic service as defined by the department on a full-time, part-time, or intermittent basis to persons in a place of temporary or permanent residence used as the person's home.

(2) Home health agency does not include a PACE center.

(3) Home health agency does not include a person or legal entity that engages only in social work practice as defined in section 38-2119.

Source: Laws 2000, LB 819, § 17; Laws 2020, LB1053, § 9; Laws 2023, LB227, § 73.

Operative date September 2, 2023.

71-424.04 Palliative care, defined.

Palliative care means specialized care or treatment for a person living with a serious illness that carries a high risk of mortality or negatively impacts quality of life. This type of care or treatment addresses the symptoms and stress of a serious illness, including pain. Palliative care is a team-based approach to care or treatment, providing essential support at any age and stage of a serious illness. It can be provided across care settings and along with curative treatment. The goal of palliative care is to improve quality of life for both the patient and the patient's family or care partner.

Source: Laws 2023, LB227, § 72.

Operative date September 2, 2023.

71-475 Drug or medication; provided to patient upon discharge; records; label; documentation.

(1)(a) When administration of a drug occurs in a hospital pursuant to a chart order, hospital personnel may provide the unused portion of the drug to the patient upon discharge from the hospital for continued use in treatment of the patient if:

(i) The drug has been opened and used for treatment of the patient at the hospital and is necessary for the continued treatment of the patient and would be wasted if not used by the patient; and

(ii) The drug is:

(A) In a multidose device or a multidose container; or

(B) In the form of a liquid reconstituted from a dry stable state to a liquid resulting in a limited stability.

(b) A drug provided to a patient in accordance with this subsection shall be labeled with the name of the patient, the name of the drug including the quantity if appropriate, the date the drug was provided, and the directions for use.

(2)(a) A licensed health care practitioner authorized to prescribe controlled substances may provide to his or her patients being discharged from a hospital a sufficient quantity of drugs adequate, in the judgment of the practitioner, to

continue treatment, which began in the hospital, until the patient is reasonably able to access a pharmacy.

(b) The pharmacist-in-charge at the hospital shall maintain records of the drugs provided to patients in accordance with this subsection which shall include the name of the patient, the name of the drug including the quantity if appropriate, the date the drug was provided, and the directions for use.

(3) If a drug is provided to a patient in accordance with subsection (1) or (2) of this section:

(a) The drug shall be kept in a locked cabinet or automated medication system with access only by a licensed health care practitioner authorized to prescribe, dispense, or administer controlled substances;

(b) Prior to providing the drug to the patient, a written or electronic order shall be in the patient's record;

(c) The process at the hospital shall be under the direct supervision of the prescriber;

(d) If the label is prepared by a nurse, the prescriber shall verify the drug and the directions for the patient;

(e) When possible, the directions for the patient shall be preprinted on the label by the pharmacist;

(f) The label shall include the name of the patient, the name of the drug including the quantity if appropriate, the date the drug was provided, and the directions for use;

(g) A written information sheet shall be given to the patient for each drug provided; and

(h) Documentation in a readily retrievable format shall be maintained each time a drug is provided to a patient from the hospital pharmacy's inventory which shall include the date, the patient, the drug, and the prescriber.

(4)(a) When a hospital, an ambulatory surgical center, or a health care practitioner facility provides medication that is ordered at least twenty-four hours in advance for surgical procedures and is administered to a patient at the hospital, ambulatory surgical center, or health care practitioner facility, any unused portion of the medication shall be offered to the patient upon discharge when it is required for continuing treatment. The unused portion of any such medication accepted by the patient upon discharge shall be labeled by the prescriber or a pharmacist consistent with labeling requirements in section 71-2479.

(b) For purposes of this subsection, medication means any topical antibiotic, anti-inflammatory, dilation, or glaucoma drop or ointment that a hospital, ambulatory surgical center, or health care practitioner facility has on stand-by or is retrieved from a dispensing system for a specified patient for use during a procedure or visit.

(c) If the medication is used in an operating room or emergency department setting, the prescriber is responsible for counseling the patient on its proper use and administration and no other patient counseling is required under section 38-2869.

Source: Laws 2017, LB166, § 20; Laws 2023, LB227, § 74.
Operative date September 2, 2023.

ARTICLE 6
VITAL STATISTICS

Section

71-612. Department; certificates; copies; fees; waiver of fees, when; search of death certificates; fee; access; petty cash fund; authorized.

71-612 Department; certificates; copies; fees; waiver of fees, when; search of death certificates; fee; access; petty cash fund; authorized.

(1) The department, as the State Registrar, shall preserve permanently and index all certificates received. The department shall supply to any applicant for any proper purpose, as defined by rules and regulations of the department, a certified copy of the record of any birth, death, marriage, annulment, or dissolution of marriage or an abstract of marriage. The department shall supply a copy of a public vital record for viewing purposes at its office upon an application signed by the applicant and upon proof of the identity of the applicant. The application may include the name, address, and telephone number of the applicant, purpose for viewing each record, and other information as may be prescribed by the department by rules and regulations to protect the integrity of vital records and prevent their fraudulent use. Except as provided in subsections (2), (3), (5), (6), (7), and (9) of this section, the department shall be entitled to charge and collect in advance a fee of sixteen dollars to be paid by the applicant for each certified copy or abstract of marriage supplied to the applicant or for any search made at the applicant's request for access to or a certified copy of any record or abstract of marriage, whether or not the record or abstract is found on file with the department.

(2) The department shall, free of charge, search for and furnish a certified copy of any record or abstract of marriage on file with the department upon the request of (a) the United States Department of Veterans Affairs or any lawful service organization empowered to represent veterans if the copy of the record or abstract of marriage is to be issued, for the welfare of any member or veteran of the armed forces of the United States or in the interests of any member of his or her family, in connection with a claim growing out of service in the armed forces of the nation or (b) the Military Department.

(3) The department may, free of charge, search for and furnish a certified copy of any record or abstract of marriage on file with the department when in the opinion of the department it would be a hardship for the claimant of old age, survivors, or disability benefits under the federal Social Security Act to pay the fee provided in this section.

(4) A strict account shall be kept of all funds received by the department. Funds received pursuant to subsections (1), (5), (6), and (8) of this section shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund. Money credited to the fund pursuant to this section shall be used for the purpose of administering the laws relating to vital statistics and may be used to create a petty cash fund administered by the department to facilitate the payment of refunds to individuals who apply for copies or abstracts of records. The petty cash fund shall be subject to section 81-104.01, except that the amount in the petty cash fund shall not be less than twenty-five dollars nor more than one thousand dollars.

(5) The department shall, upon request, conduct a search of death certificates for stated individuals for the Nebraska Medical Association or any of its allied

medical societies or any inhospital staff committee pursuant to sections 71-3401 to 71-3403. If such death certificate is found, the department shall provide a noncertified copy. The department shall charge a fee for each search or copy sufficient to cover its actual direct costs, except that the fee shall not exceed three dollars per individual search or copy requested.

(6) The department may permit use of data from vital records for statistical or research purposes under section 71-602 or disclose data from certificates or records to federal, state, county, or municipal agencies of government for use in administration of their official duties and charge and collect a fee that will recover the department's cost of production of the data. The department may provide access to public vital records for viewing purposes by electronic means, if available, under security provisions which shall assure the integrity and security of the records and database and shall charge and collect a fee that shall recover the department's costs.

(7) In addition to the fees charged under subsection (1) of this section, the department shall charge and collect an additional fee of one dollar for any certified copy of the record of any birth or for any search made at the applicant's request for access to or a certified copy of any such record, whether or not the record is found on file with the department. Any county containing a city of the metropolitan class which has an established city-county or county health department pursuant to sections 71-1626 to 71-1636 which has an established system of registering births and deaths shall charge and collect in advance a fee of one dollar for any certified copy of the record of any birth or for any search made at the applicant's request for such record, whether or not the record is found on file with the county. All fees collected under this subsection shall be remitted to the State Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

(8) The department shall not charge other state agencies the fees authorized under subsections (1) and (7) of this section for automated review of any certificates or abstracts of marriage. The department shall charge and collect a fee from other state agencies for such automated review that will recover the department's cost.

(9) The department shall not charge any fee for a certified copy of a birth record if the applicant does not have a current Nebraska driver's license or state identification card and indicates in the application that the applicant needs a certified copy of the birth record to apply for a state identification card for voting purposes.

Source: Laws 1919, c. 190, tit. VI, art. II, div. IX, § 14, p. 784; Laws 1921, c. 73, § 1, p. 272; C.S.1922, § 8244; Laws 1927, c. 166, § 9, p. 451; C.S.1929, § 71-2416; Laws 1941, c. 140, § 10, p. 554; C.S.Supp.,1941, § 71-2416; Laws 1943, c. 147, § 1, p. 532; R.S. 1943, § 71-612; Laws 1951, c. 229, § 1, p. 830; Laws 1959, c. 323, § 1, p. 1180; Laws 1963, c. 410, § 1, p. 1330; Laws 1965, c. 418, § 6, p. 1338; Laws 1965, c. 419, § 2, p. 1342; Laws 1973, LB 583, § 8; Laws 1983, LB 617, § 14; Laws 1985, LB 42, § 7; Laws 1986, LB 333, § 9; Laws 1989, LB 344, § 12; Laws 1991, LB 703, § 30; Laws 1992, LB 1019, § 50; Laws 1993, LB 536, § 63; Laws 1995, LB 406, § 32; Laws 1996, LB 1044, § 524; Laws 1997, LB 307, § 140; Laws 2002, Second Spec. Sess., LB 48, § 3; Laws 2004, LB 1005, § 56; Laws 2006, LB 994, § 86; Laws 2006, LB

1115, § 39; Laws 2007, LB296, § 413; Laws 2014, LB994, § 1; Laws 2023, LB514, § 23.
Operative date June 2, 2023.

ARTICLE 8
BEHAVIORAL HEALTH SERVICES

(a) NEBRASKA BEHAVIORAL HEALTH SERVICES ACT

Section

- 71-801. Nebraska Behavioral Health Services Act; act, how cited.
- (b) CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINIC ACT
- 71-832. Certified Community Behavioral Health Clinic Act; act, how cited.
- 71-833. Legislative intent.
- 71-834. Terms, defined.
- 71-835. Prospective payment system; medicaid state plan amendment; development and implementation.
- 71-836. Rules and regulations.
- 71-837. Appropriations; legislative intent.

(a) NEBRASKA BEHAVIORAL HEALTH SERVICES ACT

71-801 Nebraska Behavioral Health Services Act; act, how cited.

Sections 71-801 to 71-830 and the Certified Community Behavioral Health Clinic Act shall be known and may be cited as the Nebraska Behavioral Health Services Act.

Source: Laws 2004, LB 1083, § 1; Laws 2006, LB 994, § 91; Laws 2009, LB154, § 17; Laws 2009, LB603, § 3; Laws 2012, LB1158, § 3; Laws 2020, LB1158, § 5; Laws 2023, LB276, § 1.
Effective date May 26, 2023.

Cross References

Certified Community Behavioral Health Clinic Act, see section 71-832.

(b) CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINIC ACT

71-832 Certified Community Behavioral Health Clinic Act; act, how cited.

Sections 71-832 to 71-837 shall be known and may be cited as the Certified Community Behavioral Health Clinic Act.

Source: Laws 2023, LB276, § 2.
Effective date May 26, 2023.

71-833 Legislative intent.

The intent of the Legislature is to increase access to mental health and substance use treatment and expand capacity for comprehensive, holistic services, respond to local needs, incorporate evidence-based practices, and establish care coordination as a linchpin for service delivery including effective community partnerships with law enforcement, schools, hospitals, primary care providers, and public and private service organizations to improve care, reduce recidivism, and address health disparities.

Source: Laws 2023, LB276, § 3.
Effective date May 26, 2023.

71-834 Terms, defined.

For purposes of the Certified Community Behavioral Health Clinic Act:

(1) Certified community behavioral health clinic means a nonprofit organization, a unit of the local behavioral health authority, an entity operated under authority of the Indian Health Service, an Indian tribe, or tribal organization pursuant to a contract, grant, cooperative agreement, or compact with the Indian Health Service pursuant to the Indian Self-Determination and Education Assistance Act of 1975, or an entity that is an urban Indian organization pursuant to a grant or contract with the Indian Health Service under Title V of the Indian Health Care Improvement Act, Public Law 94-437, providing community-based mental health and substance use health services that are nationally accredited that:

(a) Meet the federal certification criteria of the federal Protecting Access to Medicare Act of 2014 or a state certification system for certified community behavioral health clinics to be established by the department and which shall be substantially equivalent to the federal Protecting Access to Medicare Act of 2014; and

(b) Provide, at a minimum, the following community-based services either directly or indirectly through formal referral relationships with other providers:

- (i) Outpatient mental health and substance use services;
- (ii) Crisis mental health services;
- (iii) Screening, assessment, and diagnosis, including risk assessments;
- (iv) Person-centered treatment planning;
- (v) Outpatient clinic primary care screening and monitoring of key health indicators and health risks;
- (vi) Targeted case management;
- (vii) Psychiatric rehabilitation services;
- (viii) Peer support and counselor services and family supports; and
- (ix) Community-based mental health care for members of the armed forces and veterans consistent with minimum clinical mental health guidelines promulgated by the Veterans Health Administration; and

(2) Prospective payment system means a daily or monthly medicaid payment methodology that allows providers to be reimbursed based on anticipated costs of providing required services to persons enrolled in medicaid.

Source: Laws 2023, LB276, § 4.

Effective date May 26, 2023.

71-835 Prospective payment system; medicaid state plan amendment; development and implementation.

(1) The department shall develop a prospective payment system under the medical assistance program for funding certified community behavioral health clinics. Such system shall permit either daily or monthly payment rates.

(2) The department shall submit to the federal Centers for Medicare and Medicaid Services any approval request necessary for a medicaid state plan amendment to implement this section.

(3) Subject to such approval, such prospective payment system shall be implemented before January 1, 2026.

(4) The department shall solicit input from current certified community behavioral health clinics during the development of the medicaid state plan amendment.

Source: Laws 2023, LB276, § 5.
Effective date May 26, 2023.

71-836 Rules and regulations.

The department shall adopt and promulgate rules and regulations to implement sections 71-833 to 71-836.

Source: Laws 2023, LB276, § 6.
Effective date May 26, 2023.

71-837 Appropriations; legislative intent.

It is the intent of the Legislature to appropriate no more than four million five hundred thousand dollars annually beginning in fiscal year 2025-26 from the General Fund for the purpose of the Certified Community Behavioral Health Clinic Act.

Source: Laws 2023, LB276, § 7.
Effective date May 26, 2023.

ARTICLE 17

NURSES

(h) NEBRASKA CENTER FOR NURSING ACT

Section

71-1797. Legislative findings and intent.

71-1798. Nebraska Center for Nursing; established; goals; expansion of clinical training sites.

(h) NEBRASKA CENTER FOR NURSING ACT

71-1797 Legislative findings and intent.

The Legislature finds that it is imperative that the State of Nebraska protect its investment and the progress made in its efforts to alleviate the nursing shortage which exists. The Legislature also finds that the Nebraska Center for Nursing will provide the appropriate means to do so. It is the intent of the Legislature to appropriate funds necessary for the center to carry out the Nebraska Center for Nursing Act, including, but not limited to, (1) administrative costs incurred by the Department of Health and Human Services to expand clinical training sites as provided in subsection (3) of section 71-1798 and (2) funds for such expansion of clinical training sites in the amount of three million dollars from the General Fund for fiscal year 2023-24 and three million dollars from the General Fund for fiscal year 2024-25.

Source: Laws 2000, LB 1025, § 2; Laws 2023, LB227, § 75.
Operative date September 2, 2023.

71-1798 Nebraska Center for Nursing; established; goals; expansion of clinical training sites.

(1) The Nebraska Center for Nursing is established. The center shall address issues of supply and demand for nurses, including issues of recruitment,

retention, and utilization of nurses. The Legislature finds that the center will repay the state's investment by providing an ongoing strategy for the allocation of the state's resources directed towards nursing.

(2) The primary goals for the center are:

(a) To develop a strategic statewide plan to alleviate the nursing shortage in Nebraska by:

(i) Establishing and maintaining a database on nursing supply and demand in Nebraska, including current supply and demand and future projections; and

(ii) Selecting priorities from the plan to be addressed;

(b) To convene various groups representative of nurses, other health care providers, business and industry, consumers, legislators, and educators to:

(i) Review and comment on data analysis prepared for the center;

(ii) Recommend systemic changes, including strategies for implementation of recommended changes; and

(iii) Evaluate and report the results of these efforts to the Legislature and the public; and

(c) To enhance and promote recognition, reward, and renewal activities for nurses by:

(i) Proposing and creating recognition, reward, and renewal activities; and

(ii) Promoting media and positive image-building efforts for nursing.

(3) After consultation with a statewide association representing hospitals and health systems that provide clinical nursing opportunities, the Nebraska Center for Nursing Board shall provide for the expansion of clinical training sites for nurses throughout the state, giving preference to areas that have lower numbers of registered nurses per capita compared to the state average, and shall provide for the development of programs that:

(a) Incentivize clinical nurses to become clinical nurse faculty;

(b) Incentivize nurse faculty to partner with staff nurses in the development of clinical nurse faculty;

(c) Expand simulation training for nurse clinical education; and

(d) Incentivize hospital facilities to support the center in carrying out this subsection.

Source: Laws 2000, LB 1025, § 3; Laws 2023, LB227, § 76.

Operative date September 2, 2023.

ARTICLE 19

CARE OF CHILDREN

(a) FOSTER CARE LICENSURE

Section

71-1902. Foster care; license required; license renewal; kinship homes and relative homes; department and child-placing agencies; duties; placement in nonlicensed relative home or kinship home; approval by department; when; license revocation; procedure.

(d) STEP UP TO QUALITY CHILD CARE ACT

71-1962. Nebraska Early Childhood Professional Record System; creation and operation; State Department of Education; duties; develop classification system for eligible staff members; use.

(a) FOSTER CARE LICENSURE

71-1902 Foster care; license required; license renewal; kinship homes and relative homes; department and child-placing agencies; duties; placement in nonlicensed relative home or kinship home; approval by department; when; license revocation; procedure.

(1) The department shall adopt and promulgate rules and regulations on requirements for licenses, waivers, variances, and approval of foster family homes taking into consideration the health, safety, well-being, and best interests of the child. An initial assessment of a foster family home shall be completed and shall focus on the safety, protection, and immediate health, educational, developmental, and emotional needs of the child and the willingness and ability of the foster home, relative home, or kinship home to provide a safe, stable, and nurturing environment for a child for whom the department or child-placing agency has assumed responsibility.

(2)(a) Except as otherwise provided in this section, no person shall furnish or offer to furnish foster care for one or more children without having in full force and effect a written license issued by the department upon such terms and conditions as may be prescribed by general rules and regulations adopted and promulgated by the department. The terms and conditions for licensure may allow foster family homes to meet licensing standards through variances equivalent to the established standards.

(b) The department may issue a time-limited, nonrenewable provisional license to an applicant who is unable to comply with all licensure requirements and standards, is making a good faith effort to comply, and is capable of compliance within the time period stated in the license. The department may issue a time-limited, nonrenewable probationary license to a licensee who agrees to establish compliance with rules and regulations that, when violated, do not present an unreasonable risk to the health, safety, or well-being of the foster children in the care of the applicant.

(3) Kinship homes and relative homes are exempt from licensure, however, such homes should make efforts to be licensed if such license will facilitate the permanency plan of the child. The department and child-placing agencies shall, when requested or as part of the child's permanency plan, provide resources for and assistance with licensure, including, but not limited to, information on licensure, waivers for relative homes, kinship-specific and relative-specific foster care training, referral to local service providers and support groups, and funding and resources available to address home safety or other barriers to licensure.

(4) Prior to placement in a nonlicensed relative home or kinship home, approval shall be obtained from the department. Requirements for initial approval shall include, but not be limited to, the initial assessment provided for in subsection (1) of this section, a home visit to assure adequate and safe housing, and a criminal background check of all adult residents. Final approval shall include, but not be limited to, requirements as appropriate under section 71-1903. The department or child-placing agency shall provide assistance to an approved relative home or kinship home to support the care, protection, and nurturing of the child. Support may include, but not be limited to, information on licensure, waivers, and variances, kinship-specific and relative-specific foster care training, mental and physical health care, options for funding for needs

of the child, and service providers and support groups to address the needs of relative and kinship parents, families, and children.

(5) All nonprovisional and nonprobationary licenses issued under sections 71-1901 to 71-1906.01 shall expire two years from the date of issuance and shall be subject to renewal under the same terms and conditions as the original license, except that if a licensee submits a completed renewal application thirty days or more before the license's expiration date, the license shall remain in effect until the department either renews the license or denies the renewal application. No license issued pursuant to this section shall be renewed unless the licensee has completed the required hours of training in foster care in the preceding twelve months as prescribed by the department. A license may be revoked for cause, after notice and hearing, in accordance with rules and regulations adopted and promulgated by the department.

(6) A young adult continuing to reside in a foster family home as provided in subdivision (3) of section 43-4505 does not constitute an unrelated adult for the purpose of determining eligibility of the family to be licensed as a foster family home.

Source: Laws 1943, c. 154, § 2, p. 564; R.S.1943, § 71-1902; Laws 1945, c. 171, § 2, p. 549; Laws 1949, c. 207, § 1, p. 595; Laws 1961, c. 415, § 26, p. 1258; Laws 1982, LB 928, § 52; Laws 1984, LB 130, § 14; Laws 1987, LB 386, § 2; Laws 1988, LB 930, § 1; Laws 1990, LB 1222, § 12; Laws 1995, LB 401, § 25; Laws 1995, LB 402, § 1; Laws 1995, LB 451, § 2; Laws 2001, LB 209, § 20; Laws 2002, LB 93, § 8; Laws 2011, LB648, § 3; Laws 2012, LB820, § 7; Laws 2013, LB216, § 18; Laws 2013, LB265, § 41; Laws 2023, LB50, § 35.
Effective date September 2, 2023.

(d) STEP UP TO QUALITY CHILD CARE ACT

71-1962 Nebraska Early Childhood Professional Record System; creation and operation; State Department of Education; duties; develop classification system for eligible staff members; use.

(1) Not later than March 1, 2014, the State Department of Education shall create and operate the Nebraska Early Childhood Professional Record System. The system shall be designed in order to:

- (a) Establish a database of Nebraska's early childhood education workforce;
- (b) Verify educational degrees and professional credentials held and relevant training completed by employees of participating applicable child care and early childhood education programs; and
- (c) Provide such information to the Department of Health and Human Services for use in evaluating applications to be rated at a step above step one under section 71-1959.

(2) When an applicable child care or early childhood education program participating in the quality rating and improvement system developed pursuant to section 71-1955 applies under section 71-1959 to be rated at a step above step one, the child care or early childhood education program shall report the educational degrees and professional credentials held and relevant training completed by its child care and early childhood education employees to the

Nebraska Early Childhood Professional Record System for the program to be eligible for a quality scale rating above step one.

(3) Any child care or early childhood education provider residing or working in Nebraska may report his or her educational degrees and professional credentials held, relevant training completed, and work history to the Nebraska Early Childhood Professional Record System.

(4) The State Department of Education shall develop a classification system for all eligible staff members as defined in section 77-3603 who are employees of or who are self-employed individuals providing services for applicable child care and early childhood education programs listed in the Nebraska Early Childhood Professional Record System. The classification system shall be based on the eligible staff members' educational attainment, relevant training completed, and work history and shall be made up of five levels, with level one being the least qualified and level five being the most qualified. In order to meet the minimum qualification for classification as level one, an eligible staff member must be employed with, or be a self-employed individual providing services for, an eligible program as defined in section 77-3603 and complete at least twelve hours of in-service training at a licensed child care facility. The classification system shall be used for purposes of the tax credit granted in section 77-3605 under the School Readiness Tax Credit Act.

Source: Laws 2013, LB507, § 11; Laws 2015, LB525, § 1; Laws 2016, LB889, § 9; Laws 2020, LB266, § 1; Laws 2023, LB754, § 6. Effective date June 1, 2023.

Cross References

School Readiness Tax Credit Act, see section 77-3601.

**ARTICLE 20
HOSPITALS**

(q) NATIONAL PROVIDER IDENTIFIER

Section

71-20,122. Off-campus location; claims; use National Provider Identifier.

(q) NATIONAL PROVIDER IDENTIFIER

71-20,122 Off-campus location; claims; use National Provider Identifier.

(1) For purposes of this section:

(a) National Provider Identifier means the standard, unique health identifier number for a health care provider that is issued by the National Provider System in accordance with 45 C.F.R. part 162, as such regulations existed on January 1, 2023; and

(b) Off-campus location means a facility:

(i) With operations that are directly or indirectly owned or controlled by, in whole or in part, a hospital, or that is affiliated with a hospital, regardless of whether such off-campus location is operated by the same governing body as the hospital;

(ii) That is located in its entirety, including all real estate, structures, and permanent fixtures, more than one mile from the main campus of the hospital

as measured from the closest real estate, structure, or permanent fixture of the main campus;

(iii) That provides services which are organizationally and functionally integrated with the hospital; and

(iv) That is an outpatient facility providing ambulatory surgery, urgent care, or emergency room services.

(2) An off-campus location of a hospital shall obtain a National Provider Identifier that is distinct from the National Provider Identifier used by the main campus of the affiliated hospital and any other off-campus location of such hospital and shall use such identifier on all claims for reimbursement or payment for health care services provided at such location.

Source: Laws 2023, LB296, § 12.

Operative date September 2, 2023.

ARTICLE 24

DRUGS

(m) PRESCRIPTION DRUG SAFETY ACT

Section

71-2461.01. Central fill, defined; central fill pharmacy; delivery authorized.

71-2479. Legend drug not a controlled substance; prescription; retention; label; contents.

(m) PRESCRIPTION DRUG SAFETY ACT

71-2461.01 Central fill, defined; central fill pharmacy; delivery authorized.

(1) Central fill means the preparation, other than by compounding, of a drug, device, or biological pursuant to a medical order where the preparation occurs in a pharmacy other than the pharmacy dispensing to the patient or caregiver as defined in section 38-2809.

(2) If the dispensing pharmacy and central fill pharmacy are under common ownership, the central fill pharmacy may deliver such drug, device, or biological to the patient or caregiver on behalf of the dispensing pharmacy, except that the dispensing pharmacy shall be responsible for the prescriptions filled and delivered by the central fill pharmacy.

Source: Laws 2020, LB1052, § 14; Laws 2023, LB227, § 77.

Operative date September 2, 2023.

71-2479 Legend drug not a controlled substance; prescription; retention; label; contents.

(1) Any prescription for a legend drug which is not a controlled substance shall be kept by the pharmacy or the practitioner who holds a pharmacy license in a readily retrievable format and shall be maintained for a minimum of five years. The pharmacy or practitioner shall make all such files readily available to the department and law enforcement for inspection without a search warrant.

(2) Before dispensing a legend drug which is not a controlled substance pursuant to a written, oral, or electronic prescription, a label shall be affixed to the container in which the drug is dispensed. Such label shall bear (a) the name, address, and telephone number of the pharmacy or practitioner and the

name and address of the central fill pharmacy if central fill is used, (b) the name of the patient, (c) the date of filling, (d) the serial number of the prescription under which it is recorded in the practitioner’s prescription records, (e) the name of the prescribing practitioner, (f) the directions for use, (g) the name of the drug, device, or biological unless instructed to omit by the prescribing practitioner, (h) the strength of the drug or biological, if applicable, (i) the quantity of the drug, device, or biological in the container, except unit-dose containers, (j) the dosage form of the drug or biological, and (k) any cautionary statements contained in the prescription.

(3) For multidrug containers, more than one drug, device, or biological may be dispensed in the same container when (a) such container is prepackaged by the manufacturer, packager, or distributor and shipped directly to the pharmacy in this manner or (b) the container does not accommodate greater than a thirty-one-day supply of compatible dosage units and is labeled to identify each drug or biological in the container in addition to all other information required by law.

Source: Laws 2015, LB37, § 23; Laws 2017, LB166, § 25; Laws 2020, LB1052, § 17; Laws 2023, LB227, § 78.
Operative date September 2, 2023.

ARTICLE 34

REDUCTION IN MORBIDITY AND MORTALITY

(b) CHILD AND MATERNAL DEATHS

Section

- 71-3404. Child and Maternal Death Review Act, how cited; child deaths; stillbirths; maternal deaths and severe maternal morbidity; legislative findings and intent.
- 71-3405. Terms, defined.
- 71-3407. Teams; purposes; duties; powers.
- 71-3408. Chairperson; team coordinator; duties; team data abstractor; qualifications; duties.
- 71-3409. Review of child deaths, stillbirths, maternal deaths, and severe maternal morbidity; manner.
- 71-3410. Provision of information and records; subpoenas.

(d) OVERDOSE FATALITIES

- 71-3422. Overdose Fatality Review Teams Act, how cited.
- 71-3423. Legislative findings.
- 71-3424. Purposes of act.
- 71-3425. Terms, defined.
- 71-3426. Lead organization; establish a local team; membership; chairperson; duties.
- 71-3427. Local team; duties; limitation; report; department; duties.
- 71-3428. Local team meetings; participants and attendees; requirements; liability; professional disciplinary action; immunity; limitation.
- 71-3429. Open Meetings Act; local team not considered public body; information and records; confidentiality.
- 71-3430. Lead organization; access to information; subpoena; enforcement.
- 71-3431. Local team member; contact, interview, or obtain information from family member or friend of deceased.
- 71-3432. Local team meetings; ad hoc participation; confidential information; shared, when; lead organization; powers and duties; local team; consultation agreements.
- 71-3433. Local team meetings; confidentiality form; participation requirements; disclosures prohibited; information and records; release permitted; limitations; testify at proceedings; prohibited.
- 71-3434. Provision of information and records; immunity.

Section

71-3435. Civil action; authorized; appropriate relief.

71-3436. Confidentiality requirements; violation; penalty.

71-3437. Rules and regulations.

(b) CHILD AND MATERNAL DEATHS

71-3404 Child and Maternal Death Review Act, how cited; child deaths; stillbirths; maternal deaths and severe maternal morbidity; legislative findings and intent.

(1) Sections 71-3404 to 71-3411 shall be known and may be cited as the Child and Maternal Death Review Act.

(2) The Legislature finds and declares that it is in the best interests of the state, its residents, and especially the children of this state that the number and causes of death of children, including stillbirths, in this state be examined. There is a need for a comprehensive integrated review of all child deaths and stillbirths in Nebraska and a system for statewide retrospective review of existing records relating to each child death and stillbirth.

(3) The Legislature further finds and declares that it is in the best interests of the state and its residents that the number and causes of maternal death and severe maternal morbidity in this state be examined. There is a need for a comprehensive integrated review of all maternal deaths and incidents of severe maternal morbidity in Nebraska and a system for statewide retrospective review of existing records relating to each maternal death and incident of severe maternal morbidity.

(4) It is the intent of the Legislature, by creation of the Child and Maternal Death Review Act, to:

(a) Identify trends from the review of past records to prevent future child deaths, stillbirths, maternal deaths, and incidents of severe maternal morbidity from similar causes when applicable;

(b) Recommend systematic changes for the creation of a cohesive method for responding to certain child deaths, stillbirths, maternal deaths, and incidents of severe maternal morbidity; and

(c) When appropriate, cause referral to be made to those agencies as required in section 28-711 or as otherwise required by state law.

Source: Laws 1993, LB 431, § 1; Laws 2013, LB361, § 1; Laws 2022, LB741, § 47; Laws 2023, LB227, § 95.

Operative date September 2, 2023.

71-3405 Terms, defined.

For purposes of the Child and Maternal Death Review Act:

(1) Child means a person from birth to eighteen years of age;

(2) Investigation of child death means a review of existing records and other information regarding the child or stillbirth from relevant agencies, professionals, and providers of medical, dental, prenatal, and mental health care. The records to be reviewed may include, but not be limited to, medical records, coroner's reports, autopsy reports, social services records, records of alternative response cases under alternative response implemented in accordance with sections 28-710.01, 28-712, and 28-712.01, educational records, emergency and paramedic records, and law enforcement reports;

(3) Investigation of maternal death means a review of existing records and other information regarding the woman from relevant agencies, professionals, and providers of medical, dental, prenatal, and mental health care. The records to be reviewed may include, but not be limited to, medical records, coroner's reports, autopsy reports, social services records, educational records, emergency and paramedic records, and law enforcement reports;

(4) Maternal death means the death of a woman during pregnancy or the death of a postpartum woman;

(5) Postpartum woman means a woman during the period of time beginning when the woman ceases to be pregnant and ending one year after the woman ceases to be pregnant;

(6) Preventable child death means the death of any child or stillbirth which reasonable medical, social, legal, psychological, or educational intervention may have prevented. Preventable child death includes, but is not limited to, the death of a child or stillbirth resulting from (a) intentional and unintentional injuries, (b) medical misadventures, including untoward results, malpractice, and foreseeable complications, (c) lack of access to medical care, (d) neglect and reckless conduct, including failure to supervise and failure to seek medical care for various reasons, and (e) preventable premature birth;

(7) Preventable maternal death means the death of a pregnant or postpartum woman when there was at least some chance of the death being averted by one or more reasonable changes to (a) the patient, (b) the patient's family, (c) the health care provider, facility, or system, or (d) community factors;

(8) Reasonable means taking into consideration the condition, circumstances, and resources available;

(9) Severe maternal morbidity means the unexpected outcomes of labor and delivery resulting in significant short- or long-term consequences to a woman's health;

(10) Stillbirth means a spontaneous fetal death which resulted in a fetal death certificate pursuant to section 71-606; and

(11) Teams means the State Child Death Review Team and the State Maternal Death Review Team.

Source: Laws 1993, LB 431, § 2; Laws 2013, LB361, § 2; Laws 2014, LB853, § 46; Laws 2020, LB1061, § 10; Laws 2022, LB741, § 48; Laws 2023, LB227, § 96.
Operative date September 2, 2023.

71-3407 Teams; purposes; duties; powers.

(1) The purpose of the teams shall be to (a) develop an understanding of the causes and incidence of child deaths, stillbirths, maternal deaths, and severe maternal morbidity in this state, (b) develop recommendations for changes within relevant agencies and organizations which may serve to prevent child deaths, stillbirths, maternal deaths, and incidents of severe maternal morbidity and (c) advise the Governor, the Legislature, and the public on changes to law, policy, and practice which will prevent child deaths, stillbirths, maternal deaths, and incidents of severe maternal morbidity.

(2) The teams shall:

(a) Undertake annual statistical studies of the causes and incidence of child or maternal deaths in this state. The studies shall include, but not be limited to, an analysis of the records of community, public, and private agency involvement with the children, the pregnant or postpartum women, and their families prior to and subsequent to the child or maternal deaths;

(b) Develop a protocol for retrospective investigation of child or maternal deaths by the teams;

(c) Develop a protocol for collection of data regarding child or maternal deaths by the teams;

(d) Consider training needs, including cross-agency training, and service gaps;

(e) Include in its annual report recommended changes to any law, rule, regulation, or policy needed to decrease the incidence of preventable child or maternal deaths;

(f) Educate the public regarding the incidence and causes of child or maternal deaths, the public role in preventing child or maternal deaths, and specific steps the public can undertake to prevent child or maternal deaths. The teams may enlist the support of civic, philanthropic, and public service organizations in the performance of educational duties;

(g) Provide the Governor, the Legislature, and the public with annual reports which shall include the teams' findings and recommendations for each of their duties. Each team shall submit an annual report on or before each December 31 to the Legislature electronically; and

(h) When appropriate, make referrals to those agencies as required in section 28-711 or as otherwise required by state law.

(3) The teams may enter into consultation agreements with relevant experts to evaluate the information and records collected. All of the confidentiality provisions of section 71-3411 shall apply to the activities of a consulting expert.

(4) The teams may enter into written agreements with entities to provide for the secure storage of electronic data, including data that contains personal or incident identifiers. Such agreements shall provide for the protection of the security and confidentiality of the content of the information, including access limitations, storage of the information, and destruction of the information. All of the confidentiality provisions of section 71-3411 shall apply to the activities of the data storage entity.

(5) The teams may enter into agreements with a local public health department as defined in section 71-1626 to act as the agent of the teams in conducting all information gathering and investigation necessary for the purposes of the Child and Maternal Death Review Act. All of the confidentiality provisions of section 71-3411 shall apply to the activities of the agent.

(6) For purposes of this section, entity means an organization which provides collection and storage of data from multiple agencies but is not solely controlled by the agencies providing the data.

Source: Laws 1993, LB 431, § 4; Laws 2012, LB782, § 116; Laws 2012, LB1160, § 18; Laws 2013, LB361, § 4; Laws 2017, LB506, § 5; Laws 2022, LB741, § 50; Laws 2023, LB227, § 97.
Operative date September 2, 2023.

71-3408 Chairperson; team coordinator; duties; team data abstractor; qualifications; duties.

- (1) The chairperson of each team shall:
 - (a) Chair meetings of the teams; and
 - (b) Ensure identification of strategies to prevent child or maternal deaths.
- (2) The team coordinator of each team provided under subsection (5) of section 71-3406 shall:
 - (a) Have the necessary information from investigative reports, medical records, coroner's reports, autopsy reports, educational records, and other relevant items made available to the team;
 - (b) Ensure timely notification of the team members of an upcoming meeting;
 - (c) Ensure that all team-reporting and data-collection requirements are met;
 - (d) Oversee adherence to the review process established by the Child and Maternal Death Review Act; and
 - (e) Perform such other duties as the team deems appropriate.
- (3) The team data abstractor provided under subsection (5) of section 71-3406 shall:
 - (a) Possess qualifying experience, a demonstrated understanding of child and maternal outcomes, strong professional communication skills, data entry and relevant computer skills, experience in medical record review, flexibility and ability to accomplish tasks in short time frames, appreciation of the community, knowledge of confidentiality laws, the ability to serve as an objective unbiased storyteller, and a demonstrated understanding of social determinants of health;
 - (b) Request records for identified cases from sources described in section 71-3410;
 - (c) Upon receipt of such records, review all pertinent records to complete fields in child, stillbirth, maternal death, and severe maternal morbidity databases;
 - (d) Summarize findings in a case summary; and
 - (e) Report all findings to the team coordinators.

Source: Laws 1993, LB 431, § 5; Laws 2013, LB361, § 5; Laws 2022, LB741, § 51; Laws 2023, LB227, § 98.
Operative date September 2, 2023.

71-3409 Review of child deaths, stillbirths, maternal deaths, and severe maternal morbidity; manner.

- (1)(a) The State Child Death Review Team shall review child deaths in the manner provided in this subsection.
- (b) The members shall review the death certificate, birth certificate, coroner's report or autopsy report if done, and indicators of child or family involvement with the department. The members shall classify the nature of the death, whether accidental, homicide, suicide, undetermined, or natural causes, determine the completeness of the death certificate, and identify discrepancies and inconsistencies.
- (c) A review shall not be conducted on any child death under active investigation by a law enforcement agency or under criminal prosecution. The members may seek records described in section 71-3410. The members shall identify the

preventability of death, the possibility of child abuse or neglect, the medical care issues of access and adequacy, and the nature and extent of interagency communication.

(2)(a) The team may review stillbirths in the manner provided in this subsection.

(b) The members may review the death certificates and other documentation which will allow the team to identify preventable causes of stillbirths.

(c) Nothing in this subsection shall be interpreted to require review of any stillbirth death.

(3)(a) The State Maternal Death Review Team shall review all maternal deaths in the manner provided in this subsection.

(b) The members shall review the maternal death records in accordance with evidence-based best practices in order to determine: (i) If the death is pregnancy-related; (ii) the cause of death; (iii) if the death was preventable; (iv) the factors that contributed to the death; (v) recommendations and actions that address those contributing factors; and (vi) the anticipated impact of those actions if implemented.

(c) A review shall not be conducted on any maternal death under active investigation by a law enforcement agency or under criminal prosecution. The members may seek records described in section 71-3410. The members shall identify the preventability of death, the possibility of domestic abuse, the medical care issues of access and adequacy, and the nature and extent of interagency communication.

(4)(a) The team may review incidents of severe maternal morbidity in the manner provided in this subsection and additionally, may use guidelines published by the Centers for Disease Control and Prevention or develop its own guidelines for such review.

(b) The members may review any records or documents which will allow the team to identify preventable causes of severe maternal morbidity.

(c) Nothing in this subsection shall be interpreted to require the review of any incident of severe maternal morbidity.

Source: Laws 1993, LB 431, § 6; Laws 1996, LB 1044, § 649; Laws 2013, LB361, § 6; Laws 2022, LB741, § 52; Laws 2023, LB227, § 99.
Operative date September 2, 2023.

71-3410 Provision of information and records; subpoenas.

(1) Upon request, the teams shall be immediately provided:

(a) Information and records maintained by a provider of medical, dental, prenatal, and mental health care, including medical reports, autopsy reports, and emergency and paramedic records; and

(b) All information and records maintained by any agency of state, county, or local government, any other political subdivision, any school district, or any public or private educational institution, including, but not limited to, birth and death certificates, law enforcement investigative data and reports, coroner investigative data and reports, educational records, parole and probation information and records, and information and records of any social services agency that provided services to the child, the pregnant or postpartum woman, or the family of the child or woman.

(2) The Department of Health and Human Services shall have the authority to issue subpoenas to compel production of any of the records and information specified in subdivisions (1)(a) and (b) of this section, except records and information on any child death, stillbirth, maternal death, or incident of severe maternal morbidity under active investigation by a law enforcement agency or which is at the time the subject of a criminal prosecution, and shall provide such records and information to the teams.

Source: Laws 1993, LB 431, § 7; Laws 1996, LB 1044, § 650; Laws 1998, LB 1073, § 126; Laws 2007, LB296, § 564; Laws 2013, LB361, § 7; Laws 2022, LB741, § 53; Laws 2023, LB227, § 100.
Operative date September 2, 2023.

(d) OVERDOSE FATALITIES

71-3422 Overdose Fatality Review Teams Act, how cited.

Sections 71-3422 to 71-3437 shall be known and may be cited as the Overdose Fatality Review Teams Act.

Source: Laws 2023, LB227, § 79.
Operative date June 7, 2023.

71-3423 Legislative findings.

The Legislature finds that:

(1) Substance use disorders and drug overdoses are major health problems that affect the lives of many people and multiple services systems and lead to profound consequences, including permanent injury and death;

(2) Overdoses caused by heroin, fentanyl, other opioids, stimulants, controlled substance analogs, novel psychoactive substances, and other legal and illegal drugs are a public health crisis that stress and strain financial, public health, health care, and public safety resources in Nebraska;

(3) Overdose fatality reviews, which are designed to uncover the who, what, when, where, why, and how of fatal overdoses, allow local authorities to examine and understand the circumstances leading to a fatal drug overdose; and

(4) Through a comprehensive and multidisciplinary review, overdose fatality review teams can better understand the individual and population factors and characteristics of potential overdose victims. This provides local authorities with a greater sense of the strategies and multiagency coordination needed to prevent future overdoses and results in the more productive allocation of overdose prevention resources and services within Nebraska communities.

Source: Laws 2023, LB227, § 80.
Operative date June 7, 2023.

71-3424 Purposes of act.

The purposes of the Overdose Fatality Review Teams Act are to:

(1) Create a legislative framework for establishing county-level, multidisciplinary overdose fatality review teams in Nebraska;

(2) Provide overdose fatality review teams with duties and responsibilities to examine and understand the circumstances leading up to overdoses so that the

teams can make recommendations on policy changes and resource allocation to prevent future overdoses; and

(3) Allow overdose fatality review teams to obtain and review records and other documentation related to overdoses from relevant agencies, entities, and individuals while remaining compliant with local, state, and federal confidentiality laws and regulations.

Source: Laws 2023, LB227, § 81.
Operative date June 7, 2023.

71-3425 Terms, defined.

For purposes of the Overdose Fatality Review Teams Act:

(1) De-identified information means information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual;

(2) Department means the Department of Health and Human Services;

(3) Drug means a substance that produces a physiological effect when ingested or otherwise introduced into the body, and includes both legal and illicit substances. Drug does not include alcohol;

(4) Health care provider means any of the following individuals who are licensed, certified, or registered to perform specified health services consistent with state law: A physician, a physician assistant, or an advanced practice registered nurse;

(5) Lead organization means a local public health department as defined in section 71-1626;

(6) Local team means the multidisciplinary and multiagency drug overdose fatality review team established by a lead organization for such organization's jurisdiction or for a group of cities, counties, or districts, pursuant to an agreement between multiple lead organizations;

(7) Mental health provider means:

(a) A psychiatrist licensed to practice under the Medicine and Surgery Practice Act;

(b) A psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111 or as provided in similar provisions of the Psychology Interjurisdictional Compact;

(c) A person licensed as an independent mental health practitioner under the Mental Health Practice Act; or

(d) A professional counselor who holds a privilege to practice in Nebraska as a professional counselor under the Licensed Professional Counselors Interstate Compact;

(8) Personal identifying information means information that permits the identity of an individual to whom the information applies to be reasonably inferred by either direct or indirect means;

(9) Overdose means injury to the body that happens when one or more drugs are taken in excessive amounts. An overdose can be fatal or nonfatal;

(10) Overdose fatality review means a process in which a local team performs a series of individual overdose fatality reviews to effectively identify system gaps

and innovative, community-specific overdose prevention and intervention strategies;

(11) Substance use disorder means a pattern of use of alcohol or other drugs leading to clinical or functional impairment, in accordance with the definition in the Diagnostic and Statistical Manual of Disorders (DSM-5) of the American Psychiatric Association, or a subsequent edition of such manual; and

(12) Substance use disorder treatment provider means any individual or entity who is licensed, registered, or certified within Nebraska to treat substance use disorders or who has a federal Drug Addiction Treatment Act of 2000 waiver from the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services to treat individuals with substance use disorder using medications approved for that indication by the United States Food and Drug Administration.

Source: Laws 2023, LB227, § 82.

Operative date June 7, 2023.

Cross References

Licensed Professional Counselors Interstate Compact, see section 38-4201.

Medicine and Surgery Practice Act, see section 38-2001.

Mental Health Practice Act, see section 38-2101.

Psychology Interjurisdictional Compact, see section 38-3901.

71-3426 Lead organization; establish a local team; membership; chairperson; duties.

(1) A lead organization may establish a local team for the lead organization's jurisdiction or for a group of cities, counties, or districts, pursuant to an agreement between multiple lead organizations. If multiple lead organizations decide to form a local team, only one shall fulfill the role of lead organization. The lead organization shall select the members of the local team.

(2) A local team shall consist of the core members that may include one or more members from the following backgrounds:

(a) Officials from the lead organization or from another local public health department or such officials' designees;

(b) Behavioral health providers or officials;

(c) Law enforcement personnel;

(d) Representatives of jails or detention centers;

(e) The coroner or the coroner's designee;

(f) Health care providers who specialize in the prevention, diagnosis, and treatment of substance use disorders;

(g) Mental health providers who specialize in substance use disorders;

(h) Representatives of emergency medical services providers in the county;

(i) The Director of Children and Family Services of the Division of Children and Family Services of the Department of Health and Human Services or the director's designee; and

(j) Representatives from the Board of Parole, the Office of Probation Administration, the Division of Parole Supervision, or the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice.

(3) A local team may also include, either as permanent or temporary members:

- (a) A local school superintendent or the superintendent's designee;
- (b) A representative of a local hospital;
- (c) A health care provider who specializes in emergency medicine;
- (d) A health care provider who specializes in pain management;
- (e) A pharmacist with a background in prescription drug misuse and diversion;
- (f) A substance use disorder treatment provider from a licensed substance use disorder treatment program;
- (g) A poison control center representative;
- (h) A mental health provider who is a generalist;
- (i) A prescription drug monitoring program administrator or such administrator's designee;
- (j) A representative from a harm reduction provider;
- (k) A recovery coach, peer support worker, or other representative of the recovery community;
- (l) A representative from the local drug court; and
- (m) Any other individual necessary for the work of the local team.

(4) The lead organization shall select a chairperson for the local team. The chairperson shall be an official of the lead organization or such official's designee. The chairperson shall:

- (a) Solicit and recruit members and appoint replacement members to fill vacancies that may arise on the team. In carrying out this responsibility, the chairperson shall, at a minimum, attempt to appoint at least one member from each of the backgrounds or positions described in subsection (2) of this section;
- (b) Facilitate local team meetings and implement the protocols and procedures of the local team;
- (c) Request and collect the records and information needed for the local team's case review. The chairperson shall remove all personal identifying information from any records or information prior to providing it to the local team;
- (d) Gather, store, and distribute the necessary records and information for reviews conducted by the team. The chairperson shall carry out such duties in compliance with all local, state, and federal confidentiality laws and regulations;
- (e) Ensure that team members receive timely notification of upcoming meetings;
- (f) Ensure the team fulfills the requirements of section 71-3427 to publish an annual report, including recommendations to prevent future drug overdose deaths;
- (g) Ensure that all members of the local team and all guest observers and participants sign confidentiality forms as required under section 71-3433;
- (h) Oversee compliance with the Overdose Fatality Review Teams Act and the protocols developed by the team;
- (i) Serve as a liaison for the local team; and

- (j) Perform such other duties as the team deems appropriate.
- (5) Members of the local team shall not receive compensation for their services as team members.

Source: Laws 2023, LB227, § 83.
Operative date June 7, 2023.

71-3427 Local team; duties; limitation; report; department; duties.

- (1) A local team shall:
 - (a) Promote cooperation and coordination among agencies involved in the investigation of drug overdose fatalities;
 - (b) Examine the incidence, causes, and contributing factors of drug overdose deaths in jurisdictions where the local team operates;
 - (c) Develop recommendations for changes within communities, public and private agencies, institutions, and systems, based on an analysis of the causes and contributing factors of drug overdose deaths;
 - (d) Advise local, regional, and state policymakers about potential changes to law, policy, funding, or practices to prevent drug overdoses;
 - (e) Establish and implement protocols and procedures for overdose investigations and to maintain confidentiality;
 - (f) Conduct a multidisciplinary review of information received pursuant to section 71-3430 regarding a person who died of a drug overdose. Such review shall be limited to records and information from which the chairperson has removed all personally identifying information. Such review shall include, but not be limited to:
 - (i) Consideration of the decedent's points of contact with health care systems, social services, educational institutions, child and family services, law enforcement and the criminal justice system, and any other systems with which the decedent had contact prior to death; and
 - (ii) Identification of the specific factors and social determinants of health that put the decedent at risk for an overdose;
 - (g) Recommend prevention and intervention strategies to improve coordination of services and investigations among member agencies and providers to reduce overdose deaths; and
 - (h) Collect, analyze, interpret, and maintain data on local overdose deaths.
- (2) A local team shall only review overdose deaths that are not under active investigation by a law enforcement agency or under criminal prosecution.
- (3)(a) On or before June 1, 2024, and on or before each June 1 thereafter, each local team shall submit a report to the department. The report shall include at least the following for the preceding year:
 - (i) The total number of fatal drug overdoses that occurred within the jurisdiction of the local team;
 - (ii) The number of fatal drug overdoses investigated by the local team;
 - (iii) The causes, manner, and contributing factors of drug overdose deaths in the team's jurisdiction, including trends;
 - (iv) Recommendations regarding the prevention of fatal and nonfatal drug overdoses for changes within communities, public and private agencies, institutions, and systems, based on an analysis of such causes and contributing

factors. Such recommendations shall include recommended changes to laws, rules and regulations, policies, training needs, or service gaps to prevent future drug overdose deaths; and

(v) Follow-up analysis of the implementation of and results from any recommendations made by the local team, including, but not limited to, changes in local or state law, policy, or funding made as a result of the local team's recommendations.

(b) The report shall include only de-identified information and shall not identify any victim, living or dead, of a drug overdose.

(c) The report is not confidential and shall be made available to the public.

(d) The department may analyze each annual report submitted pursuant to this subsection and create a single report containing an aggregate of the data submitted. The department shall make any such report publicly available and submit it electronically to the Clerk of the Legislature.

Source: Laws 2023, LB227, § 84.

Operative date June 7, 2023.

71-3428 Local team meetings; participants and attendees; requirements; liability; professional disciplinary action; immunity; limitation.

(1) Members of a local team and other individuals in attendance at a local team meeting, including, but not limited to, experts, health care professionals, or other observers:

(a) Shall sign a confidentiality agreement as provided in section 71-3433;

(b) Are bound by all applicable local, state, and federal laws concerning the confidentiality of matters reviewed by the local team, but may discuss confidential matters and share confidential information during such meeting; and

(c) Except as otherwise permitted by law, shall not disclose confidential information outside of the meeting.

(2) A member of a local team or an individual in attendance at a local team meeting shall not be subject to civil or criminal liability or any professional disciplinary action for the sharing or discussion of any confidential matter with the local team during a local team meeting. This immunity does not apply to a local team member or attendee who intentionally or knowingly discloses confidential information in violation of the Overdose Fatality Review Teams Act or any state or federal law.

Source: Laws 2023, LB227, § 85.

Operative date June 7, 2023.

71-3429 Open Meetings Act; local team not considered public body; information and records; confidentiality.

(1) A local team shall not be considered a public body for purposes of the Open Meetings Act.

(2) Except for reports under section 71-3427, information and records acquired or created by a local team are not public records subject to disclosure pursuant to sections 84-712 to 84-712.09, shall be confidential, shall not be subject to subpoena, shall be privileged and inadmissible in evidence in any legal proceeding of any kind or character, and shall not be disclosed to any other department or agency of the State of Nebraska, except the Department of

Health and Human Services as specified in the Overdose Fatality Review Teams Act.

Source: Laws 2023, LB227, § 86.
Operative date June 7, 2023.

Cross References

Open Meetings Act, see section 84-1407.

71-3430 Lead organization; access to information; subpoena; enforcement.

(1) Except as provided in subsection (4) of this section, on written request of the lead organization, and as necessary to carry out the purpose and duties of the local team, the lead organization shall be provided with the following information:

(a) Nonprivileged information and records regarding the physical health, mental health, and treatment for any substance use disorder maintained by a health care provider, substance use disorder treatment provider, hospital, or health system for an individual whose death is being reviewed by the local team; and

(b) Information and records maintained by a state or local government agency or entity, including, but not limited to, death investigative information, coroner investigative information, law enforcement investigative information, emergency medical services reports, fire department records, prosecutorial records, parole and probation information and records, court records, school records, and information and records of a social services agency, including the department, if the agency or entity provided services to an individual whose death is being reviewed by the local team.

(2) Except as provided in subsection (4) of this section, the following persons shall comply with a records request by the lead organization made pursuant to subsection (1) of this section:

- (a) A coroner;
- (b) A fire department;
- (c) A health system;
- (d) A hospital;
- (e) A law enforcement agency;

(f) A local or state governmental agency, including, but not limited to, the department, local public health authorities, the Attorney General, county attorneys, public defenders, the Commission on Public Advocacy, the Department of Correctional Services, the Office of Probation Administration, and the Division of Parole Supervision;

- (g) A mental health provider;
- (h) A health care provider;
- (i) A substance use disorder treatment provider;

(j) A school, including a public or private elementary, secondary, or postsecondary institution;

- (k) An emergency medical services provider;
- (l) A social services provider; and

(m) Any other person who is in possession of records pertinent to the local team's investigation of an overdose fatality.

(3) A person subject to a records request by a lead organization under subsection (1) of this section may charge the lead organization a reasonable fee for the service of duplicating any records requested by the lead organization, not to exceed the actual cost of duplication.

(4)(a) Compliance with any records request under this section is subject to the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder; 42 U.S.C. 290dd-2; 42 C.F.R. part 2; and the Child Protection and Family Safety Act.

(b) The department is not required to comply with a records request under subsection (2) of this section to the extent the information requested:

(i) Was obtained by the prescription drug monitoring program created under section 71-2454;

(ii) Is covered by section 68-313; or

(iii) Is covered by 42 C.F.R. 431.300 et seq.

(c) The disclosure or redisclosure of a medical record developed in connection with the provision of substance abuse treatment services, without the authorization of a person in interest, is subject to any limitations that exist under the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder; 42 U.S.C. 290dd-2; and 42 C.F.R. part 2.

(5) Information requested by the lead organization shall be provided within thirty calendar days after receipt of the written request, unless an extension is granted by the chairperson. Written request includes a request submitted via email or facsimile transmission.

(6)(a) A county attorney or the Attorney General may, upon request by a lead organization, issue subpoenas to compel production of any of the records and information specified in this section.

(b) Any willful failure to comply with such a subpoena may be certified by the county attorney or Attorney General to the district court for enforcement or punishment for contempt of court.

Source: Laws 2023, LB227, § 87.

Operative date June 7, 2023.

Cross References

Child Protection and Family Safety Act, see section 28-710.

71-3431 Local team member; contact, interview, or obtain information from family member or friend of deceased.

A member of the local team may contact, interview, or obtain information by request from a family member or friend of an individual whose death is being reviewed by the local team.

Source: Laws 2023, LB227, § 88.

Operative date June 7, 2023.

71-3432 Local team meetings; ad hoc participation; confidential information; shared, when; lead organization; powers and duties; local team; consultation agreements.

(1) A chairperson may invite other individuals to participate on the local team on an ad hoc basis for a particular investigation. Such individuals may include

those with expertise that would aid in the investigation and representatives from organizations or agencies that had contact with, or provided services to, the overdose victim.

(2) So long as each individual present at a local team meeting has signed the confidentiality form provided for in section 71-3433, any otherwise confidential information received by the local team may be shared at a local team meeting with any nonmember attendees.

(3) Local team meetings in which confidential information is discussed shall be closed to the public.

(4) A lead organization may enter into confidentiality agreements with third-party agencies to obtain otherwise confidential information.

(5) A lead organization shall enter into a data-use agreement with the prescription drug monitoring program created under section 71-2454.

(6) A local team may enter into consultation agreements with relevant experts to evaluate the information and records collected by the team. All of the confidentiality provisions of the Overdose Fatality Review Teams Act shall apply to the activities of a consulting expert.

(7) A lead organization may enter into written agreements with entities to provide for the secure storage of electronic data based on information and records collected in carrying out the local team's duties, including data that contains personal or incident identifiers. Such agreements shall provide for the protection of the security and confidentiality of the information, including access limitations, storage, and destruction of the information. The confidentiality provisions of the Overdose Fatality Review Teams Act shall apply to the activities of the data storage entity.

Source: Laws 2023, LB227, § 89.

Operative date June 7, 2023.

71-3433 Local team meetings; confidentiality form; participation requirements; disclosures prohibited; information and records; release permitted; limitations; testify at proceedings; prohibited.

(1) Each local team member and any nonmember in attendance at a meeting shall sign a confidentiality form and review the purposes and goals of the local team before they may participate in the meeting or review. The form shall set out the requirements for maintaining the confidentiality of any information disclosed during the meeting and the penalties associated with failure to maintain such confidentiality.

(2) Except as necessary to carry out the local team's purposes and duties, members of the local team and individuals attending a team meeting shall not disclose any discussion among team members at a meeting and shall not disclose any information prohibited from disclosure by the Overdose Fatality Review Teams Act.

(3) De-identified information and records obtained by a local team may be released to a researcher, research organization, university, institution, or governmental agency for the purpose of conducting scientific, medical, or public health research upon proof of identity and execution of a confidentiality agreement as provided in this section. Such release shall provide for a written agreement with the department providing protection of the security of the information, including access limitations, and the storage, destruction, and use

of the information. The release of such information pursuant to this subsection shall not make otherwise confidential information a public record.

(4) Members of a local team and individuals attending a team meeting shall not testify in any civil, administrative, licensure, or criminal proceeding, including depositions, regarding information reviewed in or an opinion formed as a result of a team meeting. This subsection shall not be construed to prevent a person from testifying to information obtained independently of the team or that is public information.

(5) Conclusions, findings, recommendations, information, documents, and records of a local team shall not be subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding, except that conclusions, findings, recommendations, information, documents, and records otherwise available from other sources shall not be immune from subpoena, discovery, or introduction into evidence through those sources solely because they were presented during proceedings of a local team or are maintained by a local team.

Source: Laws 2023, LB227, § 90.
Operative date June 7, 2023.

71-3434 Provision of information and records; immunity.

Any person that in good faith provides information or records to a local team shall not be subject to civil or criminal liability or any professional disciplinary action as a result of providing the information or record.

Source: Laws 2023, LB227, § 91.
Operative date June 7, 2023.

71-3435 Civil action; authorized; appropriate relief.

A person aggrieved by the intentional or knowing disclosure of confidential information in violation of the Overdose Fatality Review Teams Act by a local team, its members, or a person in attendance at a local team meeting may bring a civil action for appropriate relief against the person who committed such violation. Appropriate relief in an action under this section shall include:

- (1) Damages;
- (2) Such preliminary and other equitable or declaratory relief as may be appropriate; and
- (3) Reasonable attorney's fees and other litigation costs reasonably incurred.

Source: Laws 2023, LB227, § 92.
Operative date June 7, 2023.

71-3436 Confidentiality requirements; violation; penalty.

A person who intentionally or knowingly violates the confidentiality requirements of the Overdose Fatality Review Teams Act is guilty of a Class II misdemeanor.

Source: Laws 2023, LB227, § 93.
Operative date June 7, 2023.

71-3437 Rules and regulations.

The department may adopt and promulgate such rules and regulations as are necessary to carry out the Overdose Fatality Review Teams Act.

Source: Laws 2023, LB227, § 94.
Operative date June 7, 2023.

ARTICLE 53
DRINKING WATER

(c) LEAD SERVICE LINES

Section

71-5328. Lead Service Line Cash Fund; created; use; investment.

(c) LEAD SERVICE LINES

71-5328 Lead Service Line Cash Fund; created; use; investment.

The Lead Service Line Cash Fund is created. The fund shall be administered by the Department of Environment and Energy. The fund shall consist of funds transferred by the Legislature. The fund shall be used for grants to utilities districts to expedite the replacement of homeowner-owned lead service lines. 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 2023, LB818, § 40.
Effective date May 25, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 56
RURAL HEALTH

(d) RURAL HEALTH SYSTEMS AND PROFESSIONAL INCENTIVE ACT

Section

71-5661. Financial incentives; funding; Rural Health Professional Incentive Fund; created; use; investment.
71-5662. Student loan; medical resident incentive; loan repayment; eligibility.
71-5663. Amount of financial assistance; limitation.
71-5665. Commission; designate health profession shortage areas; factors.
71-5666. Student loan recipient agreement; contents.
71-5668. Loan repayment recipient agreement; contents; funding; limitation.
71-5669.01. Medical resident incentive recipient; agreement; contents.

(d) RURAL HEALTH SYSTEMS AND PROFESSIONAL INCENTIVE ACT

71-5661 Financial incentives; funding; Rural Health Professional Incentive Fund; created; use; investment.

(1) The financial incentives provided by the Rural Health Systems and Professional Incentive Act shall consist of (a) student loans to eligible students for attendance at an eligible school as determined pursuant to section 71-5662, (b) the repayment of qualified educational debts owed by physicians and psychiatrists in an approved medical specialty residency program in Nebraska as determined pursuant to section 71-5662, and (c) the repayment of qualified

educational debts owed by eligible health professionals as determined pursuant to section 71-5662. Funds for such incentives shall be appropriated from the General Fund to the department for such purposes.

(2) The Rural Health Professional Incentive Fund is created. The fund shall be used to carry out the purposes of the act, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Money credited pursuant to section 71-5670.01 and payments received pursuant to sections 71-5666, 71-5668, and 71-5669.01 shall be remitted to the State Treasurer for credit to the Rural Health Professional Incentive 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 1991, LB 400, § 12; Laws 1994, LB 1223, § 58; Laws 1995, LB 7, § 79; Laws 1996, LB 1155, § 50; Laws 1999, LB 242, § 1; Laws 2001, LB 214, § 3; Laws 2004, LB 1005, § 103; Laws 2009, First Spec. Sess., LB3, § 46; Laws 2015, LB196, § 4; Laws 2023, LB50, § 36.

Effective date September 2, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

71-5662 Student loan; medical resident incentive; loan repayment; eligibility.

(1) To be eligible for a student loan under the Rural Health Systems and Professional Incentive Act, an applicant or a recipient shall be enrolled or accepted for enrollment in an accredited medical or dental education program or physician assistant education program or an approved mental health practice program in Nebraska.

(2) To be eligible for the medical resident incentive under the act, an applicant or a recipient shall be enrolled or accepted for enrollment in an approved medical specialty residency program in Nebraska.

(3) To be eligible for loan repayment under the act, an applicant or a recipient shall be a pharmacist, a dentist, a physical therapist, an occupational therapist, a mental health practitioner, a psychologist licensed under the requirements of section 38-3114 or the equivalent thereof, a nurse practitioner, a physician assistant, a psychiatrist, or a physician in an approved specialty and shall be licensed to practice in Nebraska, not be enrolled in a residency program, not be practicing under a provisional or temporary license, and enter practice in a designated health profession shortage area in Nebraska.

Source: Laws 1991, LB 400, § 13; Laws 1994, LB 1223, § 59; Laws 1996, LB 1155, § 51; Laws 1997, LB 577, § 2; Laws 2000, LB 1115, § 81; Laws 2004, LB 1005, § 104; Laws 2007, LB463, § 1234; Laws 2008, LB797, § 19; Laws 2015, LB196, § 5; Laws 2023, LB50, § 37.

Effective date September 2, 2023.

71-5663 Amount of financial assistance; limitation.

(1) The amount of financial assistance provided through student loans pursuant to the Rural Health Systems and Professional Incentive Act shall be limited to thirty thousand dollars for each recipient for each academic year and, except

as provided in subdivision (4)(a) of this section, shall not exceed one hundred twenty thousand dollars per medical, dental, or doctorate-level mental health student or thirty thousand dollars per master's level mental health or physician assistant student.

(2) The amount of financial assistance provided through the medical resident incentive program pursuant to the act shall be limited to forty thousand dollars for each recipient for each year of residency and, except as provided in subdivision (4)(b) of this section, shall not exceed one hundred twenty thousand dollars.

(3) The amount of financial assistance provided by the state through loan repayments pursuant to the act (a) for physicians, psychiatrists, dentists, and psychologists shall be limited to thirty thousand dollars per recipient per year of full-time practice in a designated health profession shortage area and, except as provided in subdivision (4)(c) of this section, shall not exceed ninety thousand dollars per recipient and (b) for physician assistants, nurse practitioners, pharmacists, physical therapists, occupational therapists, and mental health practitioners shall be limited to fifteen thousand dollars per recipient per year of full-time practice in a designated health profession shortage area and, except as provided in subdivision (4)(c) of this section, shall not exceed forty-five thousand dollars per recipient.

(4)(a) The total amount of financial assistance provided through student loans for a doctorate-level mental health student or master's level mental health student shall be the full amount of such loans for a person who practices psychiatry, psychology, or mental health practice:

- (i) For at least five years in a designated health profession shortage area; and
- (ii) If all or a majority of such practice consists of the treatment of members of the community supervision population.

(b) The total amount of financial assistance provided through the medical resident incentive program for a psychiatrist shall be the full amount of such psychiatrist's qualified educational debts if such person practices psychiatry:

- (i) For at least five years in a designated health profession shortage area; and
- (ii) If all or a majority of such practice consists of the treatment of members of the community supervision population.

(c) The total amount of financial assistance provided through loan repayments pursuant to the act for psychiatrists, psychologists, and mental health practitioners shall be the full amount of such person's qualified educational debts if such person practices psychiatry, psychology, or mental health practice:

- (i) For at least five years in a designated health profession shortage area; and
- (ii) If all or a majority of such practice consists of the treatment of members of the community supervision population.

(5) For purposes of this section, community supervision population means persons on probation, post-release supervision, and pretrial release.

Source: Laws 1991, LB 400, § 14; Laws 1994, LB 1223, § 60; Laws 1997, LB 577, § 3; Laws 2000, LB 1115, § 82; Laws 2004, LB 1005, § 105; Laws 2006, LB 962, § 2; Laws 2008, LB797, § 20; Laws 2015, LB196, § 6; Laws 2023, LB50, § 38.
Effective date September 2, 2023.

71-5665 Commission; designate health profession shortage areas; factors.

The commission shall periodically designate health profession shortage areas within the state for the following professions: Medicine and surgery, psychiatry, physician assistants' practice, nurse practitioners' practice, psychology, and mental health practitioners' practice. The commission shall also periodically designate separate health profession shortage areas for each of the following professions: Pharmacy, dentistry, physical therapy, and occupational therapy. In making such designations the commission shall consider, after consultation with other appropriate agencies concerned with health services and with appropriate professional organizations, among other factors:

- (1) The latest reliable statistical data available regarding the number of health professionals practicing in an area and the population to be served by such practitioners;
- (2) Inaccessibility of health care services to residents of an area;
- (3) Particular local health problems;
- (4) Age or incapacity of local practitioners rendering services; and
- (5) Demographic trends in an area both past and future.

Source: Laws 1991, LB 400, § 16; Laws 1994, LB 1223, § 62; Laws 1996, LB 1155, § 53; Laws 1997, LB 577, § 4; Laws 2000, LB 1115, § 83; Laws 2004, LB 1005, § 106; Laws 2008, LB797, § 21; Laws 2023, LB50, § 39.

Effective date September 2, 2023.

71-5666 Student loan recipient agreement; contents.

Each student loan recipient shall execute an agreement with the state. Such agreement shall be exempt from the requirements of sections 73-501 to 73-510 and shall include the following terms, as appropriate:

(1) The borrower agrees to practice the equivalent of one year of full-time practice of an approved specialty in a designated health profession shortage area in Nebraska for each year of education for which a loan is received, or a longer period as required in subdivision (4)(a) of section 71-5663, and agrees to accept medicaid patients in his or her practice;

(2) If the borrower practices an approved specialty in a designated health profession shortage area in Nebraska, the loan shall be forgiven as provided in this section and subdivision (4)(a) of section 71-5663. Practice in a designated area shall commence within three months of the completion of formal education, which may include a period not to exceed five years to complete specialty training in an approved specialty. The commission may approve exceptions to any period required for completion of training upon showing good cause. Loan forgiveness shall occur on a quarterly basis, with completion of the equivalent of three months of full-time practice resulting in the cancellation of one-fourth of the annual loan amount. Part-time practice in a shortage area shall result in a prorated reduction in the cancellation of the loan amount;

(3) If the borrower practices an approved specialty in Nebraska but not in a designated health profession shortage area, practices a specialty other than an approved specialty in Nebraska, does not practice the profession for which the loan was given, discontinues practice of the profession for which the loan was given, or practices outside Nebraska, the borrower shall repay one hundred fifty percent of the outstanding loan principal with interest at a rate of eight

percent simple interest per year from the date of default. Such repayment shall commence within six months of the completion of formal education, which may include a period not to exceed five years to complete specialty training in an approved specialty, and shall be completed within a period not to exceed twice the number of years for which loans were awarded;

(4) If a borrower who is a medical, dental, or doctorate-level mental health student determines during the first or second year of medical, dental, or doctorate-level mental health education that his or her commitment to the loan program cannot be honored, the borrower may repay the outstanding loan principal, plus six percent simple interest per year from the date the loan was granted, prior to graduation from medical or dental school or a mental health practice program without further penalty or obligation. Master's level mental health and physician assistant student loan recipients shall not be eligible for this provision;

(5) If the borrower discontinues the course of study for which the loan was granted, the borrower shall repay one hundred percent of the outstanding loan principal. Such repayment shall commence within six months of the date of discontinuation of the course of study and shall be completed within a period of time not to exceed the number of years for which loans were awarded;

(6) Any practice or payment obligation incurred by the student loan recipient under the student loan program is canceled in the event of the student loan recipient's total and permanent disability or death; and

(7) For a borrower seeking benefits under subdivision (4)(a) of section 71-5663, the borrower agrees to such other terms as the department deems appropriate.

Source: Laws 1991, LB 400, § 17; Laws 1994, LB 1223, § 63; Laws 1996, LB 1155, § 54; Laws 2001, LB 214, § 4; Laws 2004, LB 1005, § 107; Laws 2007, LB374, § 1; Laws 2009, LB196, § 1; Laws 2012, LB858, § 1; Laws 2015, LB196, § 7; Laws 2023, LB50, § 40.

Effective date September 2, 2023.

71-5668 Loan repayment recipient agreement; contents; funding; limitation.

Each loan repayment recipient shall execute an agreement with the department and a local entity. Such agreement shall be exempt from the requirements of sections 73-501 to 73-510 and shall include, at a minimum, the following terms:

(1) The loan repayment recipient agrees to practice his or her profession, and a physician, psychiatrist, dentist, nurse practitioner, or physician assistant also agrees to practice an approved specialty, in a designated health profession shortage area for at least three years, or the period required by subdivision (4)(c) of section 71-5663, and to accept medicaid patients in his or her practice;

(2) In consideration of the agreement by the recipient, the State of Nebraska and a local entity within the designated health profession shortage area will provide equal funding for the repayment of the recipient's qualified educational debts except as provided in subdivision (5) of this section, in amounts up to thirty thousand dollars per year per recipient for physicians, psychiatrists, dentists, and psychologists and up to fifteen thousand dollars per year per recipient for physician assistants, nurse practitioners, pharmacists, physical

therapists, occupational therapists, and mental health practitioners toward qualified educational debts for up to three years or a longer period as required by subdivision (4)(c) of section 71-5663. The department shall make payments directly to the recipient;

(3) If the loan repayment recipient discontinues practice in the shortage area prior to completion of the three-year requirement or the period required by subdivision (4)(c) of section 71-5663, as applicable, the recipient shall repay to the state one hundred fifty percent of the total amount of funds provided to the recipient for loan repayment with interest at a rate of eight percent simple interest per year from the date of default. Upon repayment by the recipient to the department, the department shall reimburse the local entity its share of the funds which shall not be more than the local entity's share paid to the loan repayment recipient;

(4) Any practice or payment obligation incurred by the loan repayment recipient under the loan repayment program is canceled in the event of the loan repayment recipient's total and permanent disability or death;

(5) For a loan repayment recipient seeking benefits under subdivision (4)(c) of section 71-5663, the recipient agrees to such other terms as the department deems appropriate; and

(6) Beginning on July 1, 2022, any agreements entered into by December 31, 2024, shall first use federal funds from the federal American Rescue Plan Act of 2021 for the purposes of repaying qualified educational debts prior to using any state or local funds. Agreements using federal funds from the federal American Rescue Plan Act of 2021 shall not require equal funding from a local entity. Any federal funds from the act committed to agreements during this time period shall be used by December 31, 2026.

Source: Laws 1991, LB 400, § 19; Laws 1993, LB 536, § 101; Laws 1994, LB 1223, § 64; Laws 1996, LB 1155, § 56; Laws 1997, LB 577, § 5; Laws 2000, LB 1115, § 84; Laws 2001, LB 214, § 5; Laws 2004, LB 1005, § 108; Laws 2006, LB 962, § 3; Laws 2008, LB797, § 22; Laws 2009, LB196, § 3; Laws 2012, LB858, § 3; Laws 2015, LB196, § 9; Laws 2022, LB1007, § 1; Laws 2023, LB50, § 41.

Effective date September 2, 2023.

71-5669.01 Medical resident incentive recipient; agreement; contents.

Each medical resident incentive recipient shall execute an agreement with the department. Such agreement shall be exempt from the requirements of sections 73-501 to 73-510 and shall include, at a minimum, the following terms:

(1) The medical resident incentive recipient agrees to practice an approved medical specialty the equivalent of one year of full-time practice in a designated health profession shortage area, or for a longer period as required by subdivision (4)(b) of section 71-5663, and to accept medicaid patients in his or her practice;

(2) In consideration of the agreement by the medical resident incentive recipient, the State of Nebraska will provide funding for the repayment of the recipient's qualified educational debts, in amounts up to forty thousand dollars per year for up to three years while in an approved medical specialty residency program in Nebraska, or for a longer period as required by subdivision (4)(b) of

section 71-5663. The department shall make payments directly to the medical resident incentive recipient;

(3) If the medical resident incentive recipient extends his or her residency training but not in an approved specialty, practices an approved specialty in Nebraska but not in a designated health profession shortage area, practices a specialty other than an approved specialty in Nebraska, does not practice the profession for which the loan was given, discontinues practice of the profession for which the loan was given, or practices outside Nebraska, the medical resident incentive recipient shall repay to the state one hundred fifty percent of the outstanding loan principal with interest at a rate of eight percent simple interest per year from the date of default. Such repayment shall commence within six months of the completion or discontinuation of an approved specialty residency training in Nebraska and shall be completed within a period not to exceed twice the number of years for which the medical resident incentive recipient received awards;

(4) Any practice or payment obligation incurred by the medical resident incentive recipient under the medical resident incentive program is canceled in the event of the medical resident incentive recipient's total and permanent disability or death; and

(5) For a medical resident incentive recipient seeking benefits under subdivision (4)(b) of section 71-5663, the recipient agrees to such other terms as the department deems appropriate.

Source: Laws 2015, LB196, § 10; Laws 2023, LB50, § 42.
Effective date September 2, 2023.

ARTICLE 64

BUILDING CONSTRUCTION

Section

71-6401. Act, how cited.

71-6408. Refrigerant; state building code; regulation; restrictions.

71-6401 Act, how cited.

Sections 71-6401 to 71-6408 shall be known and may be cited as the Building Construction Act.

Source: Laws 1987, LB 227, § 1; Laws 2023, LB531, § 26.
Operative date September 2, 2023.

71-6408 Refrigerant; state building code; regulation; restrictions.

No provision of the state building code may prohibit or otherwise limit the use of a refrigerant designated as acceptable for use pursuant to and in accordance with 42 U.S.C. 7671k, as such section existed on January 1, 2023, as long as any equipment containing such refrigerant is listed and installed in accordance with safety standards and use conditions imposed pursuant to such designation.

Source: Laws 2023, LB531, § 27.
Operative date September 2, 2023.

ARTICLE 69

ABORTION

(b) PREBORN CHILD PROTECTION ACT

Section

- 71-6912. Act, how cited.
71-6913. Act; applicability.
71-6914. Terms, defined.
71-6915. Abortion; physician; duties; unlawful acts; exceptions.
71-6916. Medical emergency; sexual assault or incest; written certification.
71-6917. Act; violation; exemption from liability.

(b) PREBORN CHILD PROTECTION ACT

71-6912 Act, how cited.

Sections 71-6912 to 71-6917 shall be known and may be cited as the Preborn Child Protection Act.

Source: Laws 2023, LB574, § 1.
Operative date May 23, 2023.

71-6913 Act; applicability.

The Preborn Child Protection Act only applies to intrauterine pregnancies.

Source: Laws 2023, LB574, § 2.
Operative date May 23, 2023.

71-6914 Terms, defined.

For purposes of the Preborn Child Protection Act:

(1)(a) Abortion means the prescription or use of any instrument, device, medicine, drug, or substance to or upon a woman known to be pregnant with the specific intent of terminating the life of her preborn child.

(b) Abortion shall under no circumstances be interpreted to include:

- (i) Removal of an ectopic pregnancy;
- (ii) Removal of the remains of a preborn child who has already died;
- (iii) An act done with the intention to save the life or preserve the health of the preborn child;
- (iv) The accidental or unintentional termination of the life of a preborn child;
or
- (v) During the practice of in vitro fertilization or another assisted reproductive technology, the termination or loss of the life of a preborn child who is not being carried inside a woman's body;

(2) Gestational age means the age of a preborn child as calculated from the first day of the last menstrual period of the pregnant woman;

(3)(a) Medical emergency means any condition which, in reasonable medical judgment, so complicates the medical condition of the pregnant woman as to necessitate the termination of her pregnancy to avert her death or for which a delay in terminating her pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function.

(b) No condition shall be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct which would result in her

death or in substantial and irreversible physical impairment of a major bodily function;

(4) Preborn child means an individual living member of the species homo sapiens, throughout the embryonic and fetal stages of development to full gestation and childbirth;

(5) Pregnant means the condition of having a living preborn child inside one's body; and

(6) Reasonable medical judgment means a medical judgment that could be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

Source: Laws 2023, LB574, § 3.

Operative date May 23, 2023.

71-6915 Abortion; physician; duties; unlawful acts; exceptions.

(1) Except as provided in subsection (3) of this section, a physician, before performing or inducing an abortion, shall first:

(a) Determine, using standard medical practice, the gestational age of the preborn child; and

(b) Record in the pregnant woman's medical record:

(i) The method used to determine the gestational age of the preborn child; and

(ii) The date, time, and results of such determination.

(2) Except as provided in subsection (3) of this section, it shall be unlawful for any physician to perform or induce an abortion:

(a) Before fulfilling the requirements of subsection (1) of this section; or

(b) If the probable gestational age of the preborn child has been determined to be twelve or more weeks.

(3) It shall not be a violation of subsection (1) or (2) of this section for a physician to perform or induce an abortion in the case of:

(a) Medical emergency;

(b) Pregnancy resulting from sexual assault as defined in section 28-319 or 28-319.01; or

(c) Pregnancy resulting from incest as defined in section 28-703.

Source: Laws 2023, LB574, § 4.

Operative date May 23, 2023.

71-6916 Medical emergency; sexual assault or incest; written certification.

(1) If a physician performs or induces an abortion because of a medical emergency pursuant to subdivision (3)(a) of section 71-6915, the physician shall certify in writing that a medical emergency existed and explain the medical emergency in the written certification. The physician shall keep the written certification in the woman's medical record.

(2) If a physician performs or induces an abortion in the case of sexual assault or incest pursuant to subdivision (3)(b) or (c) of section 71-6915, the physician shall certify in writing that the abortion was performed because of sexual assault or incest and that the physician complied with all applicable

duties imposed by section 28-902. The physician shall keep the written certification in the woman's medical record.

Source: Laws 2023, LB574, § 5.
Operative date May 23, 2023.

71-6917 Act; violation; exemption from liability.

No woman upon whom an abortion is attempted, induced, or performed shall be liable for a violation of the Preborn Child Protection Act.

Source: Laws 2023, LB574, § 6.
Operative date May 23, 2023.

ARTICLE 71

CRITICAL INCIDENT STRESS MANAGEMENT

Section

71-7104. Critical Incident Stress Management Program; created; duties.

71-7104 Critical Incident Stress Management Program; created; duties.

There is hereby created the Critical Incident Stress Management Program. The focus of the program shall be to minimize the harmful effects of critical incident stress for emergency service personnel, with a high priority on confidentiality and respect for the individuals involved. The program shall:

- (1) Provide a stress management session to emergency service personnel who appropriately request such assistance in an effort to address critical incident stress;
- (2) Assist in providing the emotional and educational support necessary to ensure optimal functioning of emergency service personnel;
- (3) Conduct preincident educational programs to acquaint emergency service personnel with stress management techniques;
- (4) Promote interagency cooperation;
- (5) Provide an organized statewide response to the emotional needs of emergency service personnel impacted by critical incidents;
- (6) Develop guidelines for resilience training for first responders under section 48-101.01;
- (7) Set reimbursement rates for mental health examinations and resilience training under section 48-101.01; and
- (8) Set an annual limit on the hours or quantity of resilience training for which reimbursement is required under section 48-101.01.

Source: Laws 1991, LB 703, § 4; Laws 1997, LB 184, § 4; Laws 2020, LB963, § 3; Laws 2023, LB191, § 18.
Operative date September 2, 2023.

ARTICLE 73

LET THEM GROW ACT

Section

71-7301. Act, how cited.

71-7302. Legislative findings.

71-7303. Terms, defined.

71-7304. Gender-altering procedures; prohibited, when; considered unprofessional conduct; applicability of section.

Section

- 71-7305. Nonsurgical gender-altering procedures; rules and regulations.
 71-7306. Gender-altering procedures; state funds; use prohibited, when.
 71-7307. Civil action, authorized; attorney's fees.

71-7301 Act, how cited.

Sections 71-7301 to 71-7307 shall be known and may be cited as the Let Them Grow Act.

Source: Laws 2023, LB574, § 14.
 Operative date October 1, 2023.

71-7302 Legislative findings.

The Legislature finds that:

- (1) The state has a compelling government interest in protecting the health and safety of its citizens, especially vulnerable children;
- (2) Genital and nongenital gender-altering surgeries are generally not recommended for children, although evidence indicates referral for children to have such surgeries are becoming more frequent; and
- (3) Genital and nongenital gender-altering surgery includes several irreversible and invasive procedures for biological males and biological females and involves the alteration of biologically healthy and functional body parts.

Source: Laws 2023, LB574, § 15.
 Operative date October 1, 2023.

71-7303 Terms, defined.

For purposes of the Let Them Grow Act:

- (1) Biological sex means the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen, or subjective experience of gender;
- (2) Cross-sex hormones means testosterone or other androgens given to biological females in amounts that are larger or more potent than would normally occur naturally in healthy biological sex females and estrogen given to biological males in amounts that are larger or more potent than would normally occur naturally in healthy biological sex males;
- (3) Gender means the psychological, behavioral, social, and cultural aspects of being male or female;
- (4) Gender-altering surgery means any medical or surgical service that seeks to surgically alter or remove healthy physical or anatomical characteristics or features that are typical for the individual's biological sex in order to instill or create physiological or anatomical characteristics that resemble a sex different from the individual's biological sex, including without limitation, genital or nongenital gender-altering surgery performed for the purpose of assisting an individual with a gender alteration;
- (5) Gender alteration means the process in which a person goes from identifying with and living as a gender that corresponds to his or her biological sex to identifying with and living as a gender different from his or her biological sex and may involve social, legal, or physical changes;

(6)(a) Gender-altering procedures includes any medical or surgical service, including without limitation physician's services, inpatient and outpatient hospital services, or prescribed drugs related to gender alteration, that seeks to:

(i) Alter or remove physical or anatomical characteristics or features that are typical for the individual's biological sex; or

(ii) Instill or create physiological or anatomical characteristics that resemble a sex different from the individual's biological sex, including without limitation medical services that provide puberty-blocking drugs, cross-sex hormones, or other mechanisms to promote the development of feminizing or masculinizing features in the opposite biological sex, or genital or nongenital gender-altering surgery performed for the purpose of assisting an individual with a gender alteration;

(b) Gender-altering procedures does not include:

(i) Services to persons born with a medically verifiable disorder of sex development, including a person with external biological sex characteristics that are irresolvably ambiguous, such as those born with 46 XX chromosomes with virilization, 46 XY chromosomes with undervirilization, or having both ovarian and testicular tissue;

(ii) Services provided when a health care practitioner has otherwise diagnosed a disorder of sexual development that the health care practitioner has determined, through genetic or biochemical testing, that the person does not have normal sex-chromosome structure, sex-steroid production, or sex-steroid hormone action;

(iii) The acute and chronic treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of a gender-altering procedure, whether or not the gender-altering procedure was performed in accordance with state and federal law; or

(iv) Any procedure undertaken because the individual suffers from a physical disorder, physical injury, or physical illness that would, as certified by the health care practitioner, place the individual in imminent danger of death or impairment of major bodily function unless surgery is performed;

(7) Genital gender-altering surgery means a medical procedure performed for the purpose of assisting an individual with a gender alteration, including without limitation:

(a) Surgical procedures such as penectomy, orchiectomy, vaginoplasty, clitoroplasty, or vulvoplasty for biologically male patients or hysterectomy or ovariectomy for biologically female patients;

(b) Reconstruction of the fixed part of the urethra with or without a metoidioplasty; or

(c) Phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or testicular prostheses for biologically female patients;

(8) Health care practitioner means a person licensed or certified under the Uniform Credentialing Act;

(9) Puberty-blocking drugs means gonadotropin-releasing hormone analogues or other synthetic drugs used in biological males to stop luteinizing hormone secretion and therefore testosterone secretion, or synthetic drugs used in biological females which stop the production of estrogens and progesterone,

when used to delay or suppress pubertal development in children for the purpose of assisting an individual with a gender alteration; and

(10) Nongenital gender-altering surgery means medical procedures performed for the purpose of assisting an individual with a gender alteration, including without limitation:

(a) Surgical procedures for biologically male patients, such as voice surgery or thyroid cartilage reduction; or

(b) Surgical procedures for biologically female patients, such as subcutaneous mastectomy or voice surgery.

Source: Laws 2023, LB574, § 16.

Operative date October 1, 2023.

Cross References

Uniform Credentialing Act, see section 38-101.

71-7304 Gender-altering procedures; prohibited, when; considered unprofessional conduct; applicability of section.

(1) Except as provided in the Let Them Grow Act and the rules and regulations adopted and promulgated pursuant to the act, a health care practitioner shall not perform gender-altering procedures in this state for an individual younger than nineteen years of age.

(2) The intentional and knowing performance of gender-altering procedures by a health care practitioner for an individual younger than nineteen years of age in violation of subsection (1) of this section shall be considered unprofessional conduct as defined in section 38-179.

(3) This section does not apply to the continuation of treatment using puberty-blocking drugs, cross-sex hormones, or both when the course of treatment began before October 1, 2023.

(4) This section does not apply to nonsurgical gender-altering procedures when such procedures are provided in compliance with the rules and regulations adopted and promulgated pursuant to section 71-7305.

Source: Laws 2023, LB574, § 17.

Operative date October 1, 2023.

71-7305 Nonsurgical gender-altering procedures; rules and regulations.

(1) The chief medical officer as designated in section 81-3115 shall adopt and promulgate such rules and regulations as are necessary to provide for nonsurgical gender-altering procedures for individuals younger than nineteen years of age, such as puberty-blocking drugs, cross-sex hormones, or both. Such rules and regulations shall be consistent with the Let Them Grow Act and, at a minimum, include the following:

(a) Specify that a health care practitioner may prescribe approved puberty-blocking drugs, cross-sex hormones, or both to an individual younger than nineteen years of age if such individual has a long-lasting and intense pattern of gender nonconformity or gender dysphoria which began or worsened at the start of puberty;

(b) Specific criteria, obligations, or conditions regulating the administration, prescribing, delivery, sale, or use of puberty-blocking drugs, cross-sex hormones, or both involving an individual younger than nineteen years of age in

accordance with subdivision (1)(a) of this section, which shall, at a minimum, set forth the following:

(i) The minimum number of gender-identity-focused therapeutic hours required prior to an individual receiving puberty-blocking drugs, cross-sex hormones, or both;

(ii) Patient advisory requirements necessary for a health care practitioner to obtain informed patient consent;

(iii) Patient medical record documentation requirements to ensure compliance with the act; and

(iv) A minimum waiting period between the time the health care practitioner obtains informed patient consent and the administration, prescribing, or delivery of puberty-blocking drugs, cross-sex hormones, or both to such patient; and

(c) Specify that section 71-7304 does not apply to nonsurgical gender-altering procedures when such procedures are provided in compliance with the rules and regulations adopted and promulgated pursuant to this section.

(2) The Department of Health and Human Services may adopt and promulgate rules and regulations not inconsistent with the rules and regulations adopted and promulgated by the chief medical officer that are necessary to carry out the Let Them Grow Act.

Source: Laws 2023, LB574, § 18.

Operative date October 1, 2023.

71-7306 Gender-altering procedures; state funds; use prohibited, when.

State funds shall not be directly or indirectly used, granted, paid, or distributed to any entity, organization, or individual for providing gender-altering procedures to an individual younger than nineteen years of age in violation of the Let Them Grow Act and the rules and regulations adopted and promulgated pursuant to the act.

Source: Laws 2023, LB574, § 19.

Operative date October 1, 2023.

71-7307 Civil action, authorized; attorney's fees.

An individual that received a gender-altering procedure in violation of section 71-7304 after October 1, 2023, and while such individual was younger than nineteen years of age, or the parent or guardian of such an individual, may bring a civil action for appropriate relief against the health care practitioner who performed the gender-altering procedure. Appropriate relief in an action under this section includes actual damages and reasonable attorney's fees. An action under this section shall be brought within two years after discovery of damages.

Source: Laws 2023, LB574, § 20.

Operative date October 1, 2023.

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, (i) sixty-six million two hundred thousand dollars on or before July 15, 2022, (j) fifty-six million seven hundred thousand dollars on or before July 15, 2023, (k) fifty-six million five hundred thousand dollars on or before July 15, 2024, and (l) fifty-five million four 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 subsections (5) and (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) 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.

(5) 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.

(6) The State Treasurer shall transfer fifteen million dollars from the Nebraska Health Care Cash Fund on or after July 1, 2022, but before June 30, 2023, to the Board of Regents of the University of Nebraska for the University of Nebraska Medical Center for pancreatic cancer research at the University of Nebraska Medical Center. Transfers from the Nebraska Health Care Cash Fund in this subsection shall be contingent upon receipt of any matching funds from private or other sources, up to fifteen million dollars, certified by the budget administrator of the budget division of the Department of Administrative Services. Upon receipt of any matching funds certified by the budget administrator, the State Treasurer shall transfer an equal amount of funds to the Board of Regents of the University of Nebraska.

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; Laws 2021, LB384, § 12; Laws 2022, LB1012, § 11; Laws 2023, LB818, § 15.
Effective date May 25, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 82

STATEWIDE TRAUMA SYSTEM ACT

Section

- 71-8202. Legislative findings.
- 71-8208. Repealed. Laws 2023, LB227, § 121.
- 71-8216. Repealed. Laws 2023, LB227, § 121.
- 71-8220. Repealed. Laws 2023, LB227, § 121.
- 71-8222. Repealed. Laws 2023, LB227, § 121.
- 71-8226. Repealed. Laws 2023, LB227, § 121.
- 71-8227. Repealed. Laws 2023, LB227, § 121.
- 71-8228. Regional medical director, defined.
- 71-8230. Specialty level burn or pediatric trauma center, defined.
- 71-8231. State trauma medical director, defined.
- 71-8234. Trauma team, defined.
- 71-8235. Trauma system, defined.
- 71-8236. State Trauma Advisory Board; created; members; terms; expenses.
- 71-8237. State Trauma Advisory Board; duties.
- 71-8238. Repealed. Laws 2023, LB227, § 121.

Section

- 71-8239. Statewide trauma system; rules and regulations; state trauma medical director and regional medical directors; appointment.
- 71-8240. Department; statewide duties.
- 71-8241. Department; coordination.
- 71-8242. Department; duties.
- 71-8243. Centers; categorized.
- 71-8244. Designated center; requirements; request; appeal; revocation or suspension; notice; hearing.
- 71-8245. Designation of trauma centers; reviews; applicant; duties; confidentiality; fees.
- 71-8246. Repealed. Laws 2023, LB227, § 121.
- 71-8247. Trauma system quality assurance program; how established; participation.
- 71-8251. Repealed. Laws 2023, LB227, § 121.
- 71-8252. Repealed. Laws 2023, LB227, § 121.

71-8202 Legislative findings.

The Legislature finds and declares that:

(1) Trauma is a severe health problem in the State of Nebraska and a major cause of death and long-term disability;

(2) Trauma care is very limited in many parts of Nebraska, particularly in rural areas where there is a growing danger that some communities may be left without adequate emergency medical care;

(3) It is in the best interests of the citizens of Nebraska to establish an efficient and well-coordinated statewide trauma system to reduce costs and incidence of inappropriate and inadequate trauma care and emergency medical service; and

(4) The goals and objectives of a statewide trauma system are to: (a) Pursue trauma prevention activities to decrease the incidence of trauma; (b) provide optimal care for trauma victims; (c) prevent unnecessary death and disability from trauma and emergency illness; and (d) contain costs of trauma care and trauma system implementation.

Source: Laws 1997, LB 626, § 2; Laws 2023, LB227, § 101.
Operative date September 2, 2023.

71-8208 Repealed. Laws 2023, LB227, § 121.
Operative date September 2, 2023.

71-8216 Repealed. Laws 2023, LB227, § 121.
Operative date September 2, 2023.

71-8220 Repealed. Laws 2023, LB227, § 121.
Operative date September 2, 2023.

71-8222 Repealed. Laws 2023, LB227, § 121.
Operative date September 2, 2023.

71-8226 Repealed. Laws 2023, LB227, § 121.
Operative date September 2, 2023.

71-8227 Repealed. Laws 2023, LB227, § 121.
Operative date September 2, 2023.

71-8228 Regional medical director, defined.

Regional medical director means a physician licensed under the Uniform Credentialing Act.

Source: Laws 1997, LB 626, § 28; Laws 1999, LB 594, § 62; Laws 2007, LB296, § 689; Laws 2007, LB463, § 1303; Laws 2023, LB227, § 102.

Operative date September 2, 2023.

Cross References

Uniform Credentialing Act, see section 38-101.

71-8230 Specialty level burn or pediatric trauma center, defined.

Specialty level burn or pediatric trauma center means a trauma center that provides specialized care in the areas of burns or pediatrics.

Source: Laws 1997, LB 626, § 30; Laws 2009, LB195, § 95; Laws 2015, LB46, § 8; Laws 2023, LB227, § 103.

Operative date September 2, 2023.

71-8231 State trauma medical director, defined.

State trauma medical director means a physician licensed under the Uniform Credentialing Act who advises the department and carries out duties under the Statewide Trauma System Act.

Source: Laws 1997, LB 626, § 31; Laws 1999, LB 594, § 63; Laws 2007, LB296, § 690; Laws 2007, LB463, § 1304; Laws 2023, LB227, § 104.

Operative date September 2, 2023.

Cross References

Uniform Credentialing Act, see section 38-101.

71-8234 Trauma team, defined.

Trauma team means a team of physicians, nurses, medical technicians, and other personnel compiled to respond to an acutely injured patient upon the patient's arrival at the hospital.

Source: Laws 1997, LB 626, § 34; Laws 2009, LB195, § 97; Laws 2023, LB227, § 105.

Operative date September 2, 2023.

71-8235 Trauma system, defined.

Trauma system means an organized approach to providing care to trauma patients that provides personnel, facilities, and equipment for effective and coordinated trauma care. The trauma system shall identify facilities with specific capabilities to provide care and provide that trauma patients be treated at a designated trauma center appropriate to the patient's level of injury. Trauma system includes prevention, prehospital or out-of-hospital care, hospital care, and rehabilitative services.

Source: Laws 1997, LB 626, § 35; Laws 2009, LB195, § 98; Laws 2023, LB227, § 106.

Operative date September 2, 2023.

71-8236 State Trauma Advisory Board; created; members; terms; expenses.

The State Trauma Advisory Board is created. The board shall be composed of representatives knowledgeable in emergency medical services and trauma care, including emergency medical providers such as physicians, nurses, hospital personnel, prehospital or emergency care providers, local government officials, state officials, consumers, and persons affiliated professionally with health science schools. The Director of Public Health or his or her designee shall appoint the members of the board for staggered terms of three years each. The department shall provide administrative support to the board. All members of the board may be reimbursed for expenses incurred in the performance of their duties as provided in sections 81-1174 to 81-1177. The terms of members representing the same field shall not expire at the same time.

The board shall elect a chairperson and a vice-chairperson whose terms of office shall be for two years. The board shall meet at least twice per year by written request of the director or the chairperson.

Source: Laws 1997, LB 626, § 36; Laws 1998, LB 898, § 1; Laws 1999, LB 594, § 64; Laws 2007, LB296, § 691; Laws 2020, LB381, § 73; Laws 2020, LB1002, § 51; Laws 2023, LB227, § 107.
Operative date September 2, 2023.

71-8237 State Trauma Advisory Board; duties.

The State Trauma Advisory Board shall:

- (1) Advise the department regarding trauma care needs throughout the state;
- (2) Advise the Board of Emergency Medical Services regarding trauma care to be provided throughout the state by emergency medical services;
- (3) Review proposed departmental rules and regulations for trauma care; and
- (4) Recommend modifications in rules regarding trauma care.

Source: Laws 1997, LB 626, § 37; Laws 2009, LB195, § 99; Laws 2020, LB1002, § 52; Laws 2023, LB227, § 108.
Operative date September 2, 2023.

71-8238 Repealed. Laws 2023, LB227, § 121.

Operative date September 2, 2023.

71-8239 Statewide trauma system; rules and regulations; state trauma medical director and regional medical directors; appointment.

(1) The department, in consultation with and having solicited the advice of the State Trauma Advisory Board, shall maintain the statewide trauma system.

(2) The department, with the advice of the board, shall adopt and promulgate rules and regulations and develop injury prevention strategies to carry out the Statewide Trauma System Act.

(3) The Director of Public Health or his or her designee shall appoint the state trauma medical director and the regional medical directors.

(4) The department, with the advice of the board, shall identify the state and regional activities that create, operate, maintain, and enhance the statewide trauma system.

Source: Laws 1997, LB 626, § 39; Laws 2007, LB296, § 692; Laws 2009, LB195, § 100; Laws 2023, LB227, § 109.
Operative date September 2, 2023.

71-8240 Department; statewide duties.

The department shall establish and maintain the following on a statewide basis:

- (1) Trauma system objectives and priorities;
- (2) Minimum trauma standards for facilities, equipment, and personnel for advanced, basic, comprehensive, and general level trauma centers and specialty level burn or pediatric trauma centers;
- (3) Minimum standards for facilities, equipment, and personnel for advanced, intermediate, and general level rehabilitation centers;
- (4) Minimum trauma standards for the development of facility patient care protocols;
- (5) Trauma care regions as provided for in section 71-8250;
- (6) A program for emergency medical services and trauma care research and development; and
- (7) The designation of hospitals and health care facilities to provide designated trauma care services.

Source: Laws 1997, LB 626, § 40; Laws 2009, LB195, § 101; Laws 2015, LB46, § 9; Laws 2020, LB1002, § 53; Laws 2023, LB227, § 110.
Operative date September 2, 2023.

71-8241 Department; coordination.

The department shall facilitate coordination of the State Trauma Advisory Board and the Board of Emergency Medical Services to advise the department on development of the statewide trauma system.

Source: Laws 1997, LB 626, § 41; Laws 2023, LB227, § 111.
Operative date September 2, 2023.

71-8242 Department; duties.

The department shall:

- (1) Maintain the statewide trauma registry pursuant to section 71-8248 to assess the effectiveness of trauma delivery and modify standards and other requirements of the statewide trauma system to improve the provision of emergency medical services and trauma care;
- (2) Develop patient outcome measures to assess the effectiveness of trauma care in the system;
- (3) Develop standards for regional trauma care quality assurance programs; and
- (4) Coordinate and develop trauma prevention and education programs.

The department shall administer funding allocated to the department for the purpose of creating, maintaining, or enhancing the statewide trauma system.

Source: Laws 1997, LB 626, § 42; Laws 2009, LB195, § 102; Laws 2023, LB227, § 112.
Operative date September 2, 2023.

71-8243 Centers; categorized.

Designated trauma centers and rehabilitation centers that receive trauma patients shall be categorized according to designation under the Statewide Trauma System Act.

Source: Laws 1997, LB 626, § 43; Laws 1999, LB 594, § 65; Laws 2009, LB195, § 103; Laws 2023, LB227, § 113.
Operative date September 2, 2023.

71-8244 Designated center; requirements; request; appeal; revocation or suspension; notice; hearing.

(1) Any hospital, facility, rehabilitation center, or specialty level burn or pediatric trauma center that desires to be a designated center shall request designation from the department whereby each agrees to maintain a level of commitment and resources sufficient to meet responsibilities and standards required by the statewide trauma system. The department shall determine by rule and regulation the manner and form of such requests.

(2) Upon receiving a request, the department shall review the request to determine whether there is compliance with standards for the trauma care level for which designation is desired or whether the appropriate verification or accreditation documentation has been submitted. Any hospital, facility, rehabilitation center, or specialty level burn or pediatric trauma center which submits verification or accreditation documentation from a recognized independent verification or accreditation body or public agency with standards that are at least as stringent as those of the State of Nebraska for the trauma care level for which designation is desired, as determined by the State Trauma Advisory Board, shall be designated by the department and shall be included in the trauma system or plan established under the Statewide Trauma System Act. Any medical facility that is currently verified or accredited shall be designated by the department at the corresponding level of designation for the same time period in Nebraska without the necessity of an onsite review by the department.

(3) Any medical facility applying for designation may appeal its designation. The appeal shall be in accordance with the Administrative Procedure Act.

(4) Except as otherwise provided in subsection (2) of this section, designation is valid for a period of four years and is renewable upon receipt of a request from the medical facility for renewal prior to expiration.

(5) The department may revoke or suspend a designation if it determines that the medical facility is substantially out of compliance with the standards and has refused or been unable to comply after a reasonable period of time has elapsed. The department shall promptly notify the regional trauma medical director of designation suspensions and revocations. Any rehabilitation or trauma center may request an administrative hearing to review a revocation or suspension action of the department.

Source: Laws 1997, LB 626, § 44; Laws 2009, LB195, § 104; Laws 2015, LB46, § 10; Laws 2023, LB227, § 114.
Operative date September 2, 2023.

Cross References

Administrative Procedure Act, see section 84-920.

71-8245 Designation of trauma centers; reviews; applicant; duties; confidentiality; fees.

(1) The department may contract for reviews of such hospitals and health care facilities to determine compliance with required standards as part of the process to designate and renew the designation of hospitals and health care facilities as advanced, basic, comprehensive, or general level trauma centers. The applicant shall submit to the department documentation of current verification or accreditation as part of the process to designate a health care facility as a general, intermediate, or advanced level rehabilitation center or a specialty level burn or pediatric trauma center.

(2) Members of review teams and staff included in onsite visits shall not divulge and cannot be subpoenaed to divulge information obtained or reports written pursuant to this section in any civil action, except pursuant to a court order which provides for the protection of sensitive information of interested parties, including the department, in actions arising out of:

(a) The designation of a hospital or health care facility pursuant to section 71-8244;

(b) The revocation or suspension of a designation under such section; or

(c) The restriction or revocation of the clinical or staff privileges of a health care provider, subject to any further restrictions on disclosure that may apply.

(3) Information that identifies an individual patient shall not be publicly disclosed without the patient's consent.

(4) The department may establish fees to defray the costs of carrying out onsite reviews required by this section, but such fees shall not be assessed to health care facilities designated as basic or general level trauma centers.

(5) This section does not restrict the authority of a hospital or a health care provider to provide services which it has been authorized to provide by state law.

Source: Laws 1997, LB 626, § 45; Laws 2009, LB195, § 105; Laws 2015, LB46, § 11; Laws 2023, LB227, § 115.
Operative date September 2, 2023.

71-8246 Repealed. Laws 2023, LB227, § 121.

Operative date September 2, 2023.

71-8247 Trauma system quality assurance program; how established; participation.

The board shall establish a committee for each trauma region to maintain a trauma system quality assurance program established and maintained by the health care facilities designated as advanced, basic, comprehensive, and general level trauma centers. The quality assurance program shall evaluate trauma data quality, trauma care delivery, patient care outcomes, and compliance with the Statewide Trauma System Act. The regional medical director shall participate in the program and all health care providers and facilities which provide trauma care services within the region shall be invited to participate in the quality assurance program.

Source: Laws 1997, LB 626, § 47; Laws 2009, LB195, § 107; Laws 2023, LB227, § 116.
Operative date September 2, 2023.

71-8251 Repealed. Laws 2023, LB227, § 121.
Operative date September 2, 2023.

71-8252 Repealed. Laws 2023, LB227, § 121.
Operative date September 2, 2023.

CHAPTER 72

PUBLIC LANDS, BUILDINGS, AND FUNDS

Article.

- 7. State Capital and Capitol Building. 72-729.01.
- 8. Public Buildings. 72-819, 72-820.
- 10. Building Funds. 72-1001.
- 22. Nebraska State Capitol Preservation and Restoration Act. 72-2201 to 72-2216.

ARTICLE 7

STATE CAPITAL AND CAPITOL BUILDING

Section

- 72-729.01. Hall of Fame Trust Fund; created; use; investment.

72-729.01 Hall of Fame Trust Fund; created; use; investment.

There is hereby created the Hall of Fame Trust Fund to be administered by the Nebraska Hall of Fame Commission for the purpose of the creation, design, size, configuration, and placement of busts or other appropriate objects as authorized in section 72-729. Deposits to such fund shall include money received from public donation and from funds appropriated specifically for such purpose by the Legislature. The State Treasurer shall transfer ten thousand dollars from the General Fund to the Hall of Fame Trust Fund annually beginning with fiscal year 2021-22, between July 1 and July 30 of each year, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services, except that if the balance of the Hall of Fame Trust Fund exceeds fifty thousand dollars on the last day of the preceding fiscal year, such transfer shall not take place. 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 1973, LB 282, § 1; Laws 1998, LB 1129, § 8; Laws 2021, LB384, § 13; Laws 2023, LB818, § 16.
Effective date May 25, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 8

PUBLIC BUILDINGS

Section

- 72-819. Museum and visitor center honoring Chief Standing Bear; Game and Parks Commission; duties; appropriations; legislative intent; Nebraska State Historical Society; memorandum of understanding or contract, authorized.
- 72-820. Mayhew Cabin historical site; Game and Parks Commission; duties.

72-819 Museum and visitor center honoring Chief Standing Bear; Game and Parks Commission; duties; appropriations; legislative intent; Nebraska State Historical Society; memorandum of understanding or contract, authorized.

(1) The Game and Parks Commission shall construct, develop, and manage a museum and visitor center honoring Chief Standing Bear.

(2) It is the intent of the Legislature to appropriate to the Game and Parks Commission for the Chief Standing Bear Museum and visitor center:

(a) Not more than fifteen million dollars for fiscal year 2025-26 from investment earnings from the Perkins County Canal Project Fund and credited to the Economic Recovery Contingency Fund as provided in section 61-305 for construction of the museum and visitor center;

(b) Seven hundred fifty thousand dollars for fiscal year 2025-26 from investment earnings from the Perkins County Canal Project Fund and credited to the Economic Recovery Contingency Fund as provided in section 61-305 for exhibit fabrication and historical interpretation; and

(c) Two hundred thousand dollars in fiscal year 2025-26 for staffing.

(3) The Game and Parks Commission may execute a memorandum of understanding or contract with the Nebraska State Historical Society for purposes of museum and visitor center development, exhibit fabrication, and historical interpretation.

Source: Laws 2023, LB531, § 53.
Operative date June 7, 2023.

72-820 Mayhew Cabin historical site; Game and Parks Commission; duties.

The Game and Parks Commission shall purchase or receive by donation, and subsequently rehabilitate and manage, the Mayhew Cabin historical site located in Nebraska City, Nebraska.

Source: Laws 2023, LB531, § 54.
Operative date June 7, 2023.

ARTICLE 10

BUILDING FUNDS

Section

72-1001. Nebraska Capital Construction Fund; created; use; investment.

72-1001 Nebraska Capital Construction Fund; created; use; investment.

The Nebraska Capital Construction Fund is created. The fund shall consist of revenue and transfers credited to the fund as authorized by law. Money shall be appropriated from the fund to state agencies for making payments on projects as determined by the Legislature, including, but not limited to, purchases of land, structural improvements to land, acquisition of buildings, construction of buildings, including architectural and engineering costs, replacement of or major repairs to structural improvements to land or buildings, additions to existing structures, remodeling of buildings, and acquisition of equipment and furnishings of new or remodeled buildings. The fund shall be administered by the State Treasurer as a multiple-agency-use fund and appropriated to state agencies as determined by the Legislature. Transfers may be made from the fund to the Capitol Restoration Cash Fund at the direction of the Legislature. Any money in the Nebraska Capital Construction 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. Any investment earnings from investment of money in the Nebraska Capital Con-

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struction Fund shall be credited to such fund, except that for fiscal years 2023-24, 2024-25, and 2025-26, any investment earnings from investment of money in the Nebraska Capital Construction Fund from transfers credited to such fund that are designated for the construction of a new state prison shall be credited to the Economic Recovery Contingency Fund.

Source: Laws 2005, LB 426, § 1; Laws 2009, First Spec. Sess., LB2, § 3; Laws 2017, LB331, § 39; Laws 2023, LB531, § 28.
Operative date June 7, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 22

NEBRASKA STATE CAPITOL PRESERVATION AND RESTORATION ACT

Section

- 72-2201. Act, how cited.
- 72-2208. Repealed. Laws 2023, LB818, § 45.
- 72-2211. Capitol Restoration Cash Fund; created; use; investment.
- 72-2216. Capitol Preservation, Restoration, and Enhancement Endowment Fund; created; use; investment.

72-2201 Act, how cited.

Sections 72-2201 to 72-2216 shall be known and may be cited as the Nebraska State Capitol Preservation and Restoration Act.

Source: Laws 2004, LB 439, § 1; Laws 2005, LB 684, § 1; Laws 2020, LB848, § 10; Laws 2023, LB818, § 17.
Effective date May 25, 2023.

72-2208 Repealed. Laws 2023, LB818, § 45.

72-2211 Capitol Restoration Cash Fund; created; use; investment.

(1) The Capitol Restoration Cash Fund is created. The administrator shall administer the fund, which shall consist of money received from the sale of material, rental revenue, private donations, public donations, transfers from the Capitol Preservation, Restoration, and Enhancement Endowment Fund, and transfers from the Nebraska Capital Construction Fund as directed by the Legislature.

(2)(a) The Capitol Restoration Cash Fund shall be used to finance projects for the restoration, preservation, and enhancement of the State Capitol and its courtyards and grounds, to purchase and conserve items to be added to the Nebraska Capitol Collections housed in the State Capitol, to produce promotional material concerning the State Capitol, its grounds, and the Nebraska State Capitol Environs District, and to pay the expenditures for a project manager for the Capitol Heating, Ventilation, and Air Conditioning Systems Replacement Project until such time as the project is completed, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Such expenditures shall be prescribed by the administrator and approved by the commission.

(b) Money transferred to the fund from the Capitol Preservation, Restoration, and Enhancement Endowment Fund shall only be used for the restoration, preservation, and enhancement of the courtyards located at the State Capitol.

(3) Any money in the Capitol Restoration 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 2004, LB 439, § 11; Laws 2009, First Spec. Sess., LB3, § 50; Laws 2017, LB331, § 40; Laws 2023, LB818, § 18.
Effective date May 25, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

72-2216 Capitol Preservation, Restoration, and Enhancement Endowment Fund; created; use; investment.

(1) The Capitol Preservation, Restoration, and Enhancement Endowment Fund is created. The commission shall administer the fund. The fund shall consist of money transferred to the fund by the Legislature and bequests, donations, gifts, grants, or other money received from any federal or state agency or public or private source for the preservation, restoration, and enhancement of the State Capitol and capitol grounds. Any money accepted by the state for credit to the fund that is subject to conditions shall be held in trust and used subject to such conditions. 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 transfer money from the Capitol Preservation, Restoration, and Enhancement Endowment Fund to the Capitol Restoration Cash Fund in amounts and at times as directed by the commission. Money transferred from the Capitol Preservation, Restoration, and Enhancement Endowment Fund in any year shall not exceed four percent of the total balance in the fund as the balance existed on January 1 of the most recent odd-numbered year.

Source: Laws 2023, LB818, § 19.
Effective date May 25, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

CHAPTER 75

PUBLIC SERVICE COMMISSION

Article.

1. Organization and Composition, Regulatory Scope, and Procedure. 75-109.01.
3. Motor Carriers.
 - (e) Safety Regulations. 75-363 to 75-369.03.
 - (l) Unified Carrier Registration Plan and Agreement. 75-392, 75-393.

ARTICLE 1

ORGANIZATION AND COMPOSITION, REGULATORY SCOPE, AND PROCEDURE

Section

75-109.01. Jurisdiction.

75-109.01 Jurisdiction.

Except as otherwise specifically provided by law, the Public Service Commission shall have jurisdiction, as prescribed, over the following subjects:

- (1) Common carriers, generally, pursuant to sections 75-101 to 75-158;
- (2) Grain pursuant to the Grain Dealer Act and the Grain Warehouse Act and sections 89-1,104 to 89-1,108;
- (3) Manufactured homes and recreational vehicles pursuant to the Uniform Standard Code for Manufactured Homes and Recreational Vehicles;
- (4) Modular housing units pursuant to the Nebraska Uniform Standards for Modular Housing Units Act;
- (5) Motor carrier registration, licensure, and safety pursuant to sections 75-301 to 75-343, 75-369.03, 75-370, and 75-371;
- (6) Pipeline carriers and rights-of-way pursuant to the Major Oil Pipeline Siting Act, the State Natural Gas Regulation Act, and sections 75-501 to 75-503. If the provisions of Chapter 75 are inconsistent with the provisions of the Major Oil Pipeline Siting Act, the provisions of the Major Oil Pipeline Siting Act control;
- (7) Railroad carrier safety pursuant to sections 74-918, 74-919, 74-1323, and 75-401 to 75-430;
- (8) Telecommunications carriers pursuant to the Automatic Dialing-Announcing Devices Act, the Emergency Telephone Communications Systems Act, the Enhanced Wireless 911 Services Act, the Intrastate Pay-Per-Call Regulation Act, the Nebraska Telecommunications Regulation Act, the Nebraska Telecommunications Universal Service Fund Act, the Telecommunications Relay System Act, the Telephone Consumer Slamming Prevention Act, and sections 86-574 to 86-578, 86-1307, and 86-1308;
- (9) Transmission lines and rights-of-way pursuant to sections 70-301 and 75-702 to 75-724;
- (10) Water service pursuant to the Water Service Regulation Act; and

(11) Jurisdictional utilities governed by the State Natural Gas Regulation Act. If the provisions of Chapter 75 are inconsistent with the provisions of the State Natural Gas Regulation Act, the provisions of the State Natural Gas Regulation Act control.

Source: Laws 2002, LB 1105, § 482; Laws 2003, LB 790, § 63; Laws 2006, LB 1069, § 1; Laws 2006, LB 1249, § 12; Laws 2011, First Spec. Sess., LB1, § 14; Laws 2015, LB629, § 1; Laws 2015, LB461, § 1; Laws 2020, LB461, § 1; Laws 2020, LB992, § 10; Laws 2022, LB1144, § 1; Laws 2023, LB818, § 20.
Effective date May 25, 2023.

Cross References

Automatic Dialing-Announcing Devices Act, see section 86-236.
Emergency Telephone Communications Systems Act, see section 86-420.
Enhanced Wireless 911 Services Act, see section 86-442.
Grain Dealer Act, see section 75-901.
Grain Warehouse Act, see section 88-525.
Intrastate Pay-Per-Call Regulation Act, see section 86-258.
Major Oil Pipeline Siting Act, see section 57-1401.
Nebraska Telecommunications Regulation Act, see section 86-101.
Nebraska Telecommunications Universal Service Fund Act, see section 86-316.
Nebraska Uniform Standards for Modular Housing Units Act, see section 71-1555.
State Natural Gas Regulation Act, see section 66-1801.
Telecommunications Relay System Act, see section 86-301.
Telephone Consumer Slamming Prevention Act, see section 86-201.
Uniform Standard Code for Manufactured Homes and Recreational Vehicles, see section 71-4601.
Water Service Regulation Act, see section 75-1001.

**ARTICLE 3
MOTOR CARRIERS**

(e) SAFETY REGULATIONS

Section
 75-363. Federal motor carrier safety regulations; provisions adopted; exceptions.
 75-364. Additional federal motor carrier regulations; provisions adopted.
 75-366. Enforcement powers.
 75-369.03. Violations; civil penalty; referral to federal agency or Public Service Commission; when.

(l) UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT

75-392. Terms, defined.
 75-393. Unified carrier registration plan and agreement; director; powers.

(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, 2023, 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 agricultural 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; Laws 2020, LB944, § 78; Laws 2021, LB149, § 21; Laws 2022, LB750, § 79; Laws 2023, LB138, § 51.

Operative date September 2, 2023.

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, 2023, 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; Laws 2020, LB944, § 79; Laws 2021, LB149, § 22; Laws 2022, LB750, § 80; Laws 2023, LB138, § 52.

Operative date September 2, 2023.

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, 2023, and federal hazardous materials regulations, as such regulations existed on January 1, 2023, 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; Laws 2020, LB944, § 80; Laws 2021, LB149, § 23; Laws 2022, LB750, § 81; Laws 2023, LB138, § 53.

Operative date September 2, 2023.

75-369.03 Violations; civil penalty; referral to federal agency or Public Service Commission; when.

(1) The Superintendent of Law Enforcement and Public Safety may issue an order imposing a civil penalty against a motor carrier transporting persons or property in interstate commerce for a violation of sections 75-392 to 75-3,100 or against a motor carrier transporting persons or property in intrastate commerce for a violation or violations of section 75-363 or 75-364 based upon an inspection conducted pursuant to section 75-366 in an amount which shall not exceed nine hundred one dollars for any single violation in any proceeding or series of related proceedings against any person or motor carrier as defined in 49 C.F.R. 390.5 as adopted in section 75-363.

(2) The superintendent shall issue an order imposing a civil penalty in an amount not to exceed seventeen thousand nine hundred ninety-five dollars against a motor carrier transporting persons or property in interstate commerce for a violation of subdivision (2)(e) of section 60-4,162 based upon a conviction of such a violation.

(3) The superintendent shall issue an order imposing a civil penalty against a driver operating a commercial motor vehicle, as defined in section 60-465, that requires a commercial driver's license or CLP-commercial learner's permit, in violation of an out-of-service order. The civil penalty shall be in an amount not less than three thousand four hundred seventy-one dollars for a first violation and not less than six thousand nine hundred forty-three dollars for a second or subsequent violation.

(4) The superintendent shall issue an order imposing a civil penalty against a motor carrier who knowingly allows, requires, permits, or authorizes the operation of a commercial motor vehicle, as defined in section 60-465, that requires a commercial driver's license or CLP-commercial learner's permit, in violation of an out-of-service order. The civil penalty shall be not less than six thousand two hundred sixty-nine dollars but not more than thirty-four thousand seven hundred twelve dollars per violation.

(5) Upon the discovery of any violation by a motor carrier transporting persons or property in interstate commerce of section 75-307, 75-363, or 75-364 or sections 75-392 to 75-3,100 based upon an inspection conducted pursuant to section 75-366, the superintendent shall immediately refer such violation to the appropriate federal agency for disposition, and upon the discovery of any violation by a motor carrier transporting persons or property in intrastate commerce of section 75-307 based upon such inspection, the superintendent shall refer such violation to the Public Service Commission for disposition.

Source: Laws 1994, LB 358, § 3; Laws 1996, LB 1218, § 62; Laws 2002, LB 499, § 7; Laws 2006, LB 1007, § 20; Laws 2007, LB358, § 14; Laws 2008, LB845, § 2; Laws 2009, LB331, § 17; Laws 2014, LB983, § 64; Laws 2017, LB263, § 91; Laws 2018, LB909, § 124; Laws 2020, LB944, § 81; Laws 2022, LB750, § 82; Laws 2023, LB138, § 54.

Operative date September 2, 2023.

(I) UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT**75-392 Terms, defined.**

For purposes of sections 75-392 to 75-3,100:

- (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, 2023.

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; Laws 2020, LB944, § 83; Laws 2021, LB149, § 24; Laws 2022, LB750, § 83; Laws 2023, LB138, § 55.

Operative date September 2, 2023.

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, 2023, 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; Laws 2020, LB944, § 84; Laws 2021, LB149, § 25; Laws 2022, LB750, § 84; Laws 2023, LB138, § 56.

Operative date September 2, 2023.

**CHAPTER 76
REAL PROPERTY**

Article.

- 10. Trust Deeds. 76-1007.
- 23. One-Call Notification System. 76-2301 to 76-2334.
- 36. Home Inspection. 76-3602 to 76-3604.

**ARTICLE 10
TRUST DEEDS**

Section

76-1007. Sale of trust property; notice; contents; time and place of sale.

76-1007 Sale of trust property; notice; contents; time and place of sale.

(1) The trustee or the attorney for the trustee shall give written notice of the time and place of sale particularly describing the property to be sold by publication of such notice, at least five times, once a week for five consecutive weeks, the last publication to be at least ten days but not more than thirty days prior to the sale, in some newspaper having a general circulation in each county in which the property to be sold, or some part thereof, is situated.

(2) The sale shall be held at the time and place designated in the notice of sale which shall be between the hours of nine a.m. and five p.m. and at (a) the premises, (b) the courthouse of the county in which the property to be sold, or some part thereof, is situated, or (c) a public building wherein one or more county offices are located within the county in which the property to be sold, or some part thereof, is situated.

(3) The notice of sale shall be sufficient if made in substantially the following form:

Notice of Trustee’s Sale

The following described property will be sold at public auction to the highest bidder at the door of the county courthouse in, County of, Nebraska, on, 20.....

(Name of Trustee)

Source: Laws 1965, c. 451, § 7, p. 1426; Laws 2004, LB 813, § 29; Laws 2006, LB 876, § 53; Laws 2023, LB92, § 80.
Operative date June 7, 2023.

**ARTICLE 23
ONE-CALL NOTIFICATION SYSTEM**

Section

- 76-2301. Act, how cited.
- 76-2303. Definitions, where found.
- 76-2305.01. Committee, defined.
- 76-2323. Underground facilities; mark or identify; excavator; violations.
- 76-2325. Violations; civil penalty; investigation; State Fire Marshal; committee; duties; hearing; civil penalty; costs.

§ 76-2301

REAL PROPERTY

Section

- 76-2325.02. Repealed. Laws 2023, LB683, § 30.
76-2333. Underground Excavation Safety Committee; created; members; appointment; expenses; duties.
76-2334. Rules and regulations.

76-2301 Act, how cited.

Sections 76-2301 to 76-2334 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; Laws 2023, LB683, § 4.
Effective date May 27, 2023.

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; Laws 2023, LB683, § 5.
Effective date May 27, 2023.

76-2305.01 Committee, defined.

Committee means the Underground Excavation Safety Committee.

Source: Laws 2023, LB683, § 6.
Effective date May 27, 2023.

76-2323 Underground facilities; mark or identify; excavator; violations.

(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)(a) Beginning September 1, 2024, it shall be a violation of the One-Call Notification System Act for an excavator to (i) serve notice of intent to excavate

upon the center for an area in which the excavation cannot be reasonably commenced within seventeen calendar days after the excavation start date indicated pursuant to section 76-2321 or (ii) request remarking or reidentification for any area in which the excavation cannot be reasonably commenced or continued within fourteen calendar days after the date remarking or reidentification is completed.

(b) After receiving notice of any alleged violation of this subsection pursuant to subsection (2) of section 76-2325, the excavator shall in its answer describe the circumstances which prevented the commencement or continuation of excavation within the timeframes set forth in this subsection.

(4) 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; Laws 2023, LB683, § 7.
Effective date May 27, 2023.

76-2325 Violations; civil penalty; investigation; State Fire Marshal; committee; duties; hearing; civil penalty; costs.

(1) Until September 1, 2024:

(a) 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:

(i) 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

(ii) 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; and

(b) 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.

(2) Beginning September 1, 2024:

(a)(i) When the State Fire Marshal has reason to believe that any person has committed any violation described in subdivision (b) of this subsection, the State Fire Marshal may conduct an investigation to determine the facts and

circumstances of such alleged violation and, if conducted, shall give prior notice of such investigation by first-class mail or electronic mail to such person.

(ii) When any person other than the State Fire Marshal has reason to believe that any violation described in subdivision (b) of this subsection has occurred, such person may submit information to the State Fire Marshal regarding such violation on a form prescribed by the State Fire Marshal. Upon receipt of such information, the State Fire Marshal may conduct an investigation to determine the facts and circumstances of such alleged violation and, if conducted, shall give prior notice of such investigation by first-class mail or electronic mail to both the person being investigated and the person who submitted the information to the State Fire Marshal.

(iii) The State Fire Marshal shall refer the findings of the investigation to the committee for its determination. Except as otherwise provided in subdivision (2)(a)(iv) of this section, the committee shall issue a written determination stating findings of fact, conclusions of law, and the civil penalty, if any, to be assessed for such violation and serve a copy of the written determination by personal service or by certified mail, return receipt requested, upon such person. If the State Fire Marshal's investigation was commenced based on information provided pursuant to subdivision (2)(a)(ii) of this section, a copy of the written determination shall also be delivered by first-class mail to the person providing such information.

(iv) If the committee determines that the civil penalty to be assessed for any violation exceeds the amount described in subdivision (2)(b)(iv) of this section, the committee shall refer the matter, together with the State Fire Marshal's findings and the committee's written determination, to the Attorney General for prosecution pursuant to subdivision (2)(b)(v) of this section.

(v) Not later than thirty days after receipt of the committee's written determination, any party may submit a written request to the State Fire Marshal for a hearing on the matter. The committee shall then appoint a hearing officer to conduct such hearing and set a hearing date and provide written notice of hearing to the parties at least thirty days prior to the date of the hearing. Such notice shall contain the name, address, and telephone number of the hearing officer, a copy of the written determination upon which the hearing shall be held, and the date, time, and place of hearing. The notice of hearing may be served by personal service or by certified mail. If no hearing is requested in answer to the written determination by the person found to have committed any violation as described in subdivision (b) of this subsection, or if a request for a hearing is withdrawn, such person shall pay any civil penalty assessed within thirty days after receipt of the written determination or within thirty days after cancellation of the hearing, whichever is applicable.

(vi) In the preparation and conduct of the hearing, the hearing officer shall have the power, on the hearing officer's own motion or upon the request of any party, to compel the attendance of any witness and the production of any documents by subpoena to ensure a fair hearing. The hearing officer may administer oaths and examine witnesses and receive any evidence pertinent to the determination of the matter. Any witnesses so subpoenaed shall be entitled to the same fees as prescribed by law in judicial proceedings in the district court of this state in a civil action and mileage at the same rate provided in section 81-1176 for state employees.

(vii) A party may appear at the hearing with or without the assistance of counsel to present testimony, examine witnesses, and offer evidence. A stenographic record of all testimony and other evidence received at the hearing shall be made and preserved pending final disposition of the matter.

(viii) Unless all requests for hearing are withdrawn prior to the hearing, following the hearing the hearing officer shall prepare written findings of fact and conclusions of law, and based on such findings of fact and conclusions of law, the committee shall affirm, modify, or reverse the written determination issued under subdivision (2)(a)(iii) of this section and issue a final order. The committee's final order may include an assessment of costs incurred in conducting the hearing, including the costs of the hearing officer and compelling the attendance of witnesses, and assess such costs against the parties. Any party aggrieved by the final order of the committee may appeal the decision, and such appeal shall be in accordance with the Administrative Procedure Act; and

(b)(i) Except as provided in subdivision (2)(b)(ii) of this section, 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 or any rule or regulation adopted and promulgated by the State Fire Marshal pursuant to section 76-2319 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.

(ii) In addition to or in lieu of assessing a civil penalty as provided in subdivision (i) of this subsection, the committee may order that a violator take and complete continuing education regarding compliance with the One-Call Notification System Act. Such continuing education shall be approved by the State Fire Marshal.

(iii) When imposing a civil penalty, the committee 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.

(iv) The committee shall not assess a civil penalty that is more than ten thousand dollars per violation. The violator shall pay the costs of the investigation as billed by the State Fire Marshal. The State Fire Marshal shall remit such paid costs to the State Treasurer for credit to the fund from which the costs were expended.

(v) As provided in subdivision (2)(a)(iv) of this section, for any investigation in which a civil penalty in excess of the amount described in subdivision (2)(b)(iv) of this section is deemed justified by the committee, the committee shall refer such matter to the Attorney General or a prosecuting attorney who shall bring an action on behalf of the State of Nebraska to recover such penalty 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.

(vi) Costs incurred by the investigation conducted pursuant to subdivision (2)(a) of this section may be sought as part of any judgment against a violator. The State Fire Marshal shall remit any such recovered costs to the State Treasurer for credit to the fund from which the costs were expended.

(vii) All civil penalties collected 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.

Source: Laws 1994, LB 421, § 25; Laws 2014, LB930, § 5; Laws 2017, LB263, § 97; Laws 2019, LB462, § 14; Laws 2023, LB683, § 9. Effective date May 27, 2023.

Cross References

Administrative Procedure Act, see section 84-920.

76-2325.02 Repealed. Laws 2023, LB683, § 30.

76-2333 Underground Excavation Safety Committee; created; members; appointment; expenses; duties.

(1) Beginning September 1, 2024, the Underground Excavation Safety Committee is created. The committee shall consist of the following members: (a) The State Fire Marshal or the State Fire Marshal's designee, (b) three representatives of operators, (c) three representatives of excavators, and (d) one alternate representative of operators and one alternate representative of excavators. An alternate representative described in subdivision (d) of this subsection shall only participate in a committee meeting if a corresponding representative described in subdivision (b) or (c) of this subsection has declared a conflict of interest and recused himself or herself from participation in a matter before the committee or is otherwise unavailable for a committee meeting. In such instance, the chairperson shall notify the alternate representative to serve in the place of the recused or absent representative for any meeting related to such particular conflict or for the duration of such absence.

(2) The representative members shall be appointed by the Governor. The Governor shall appoint one of the three initial representatives of operators described in subdivision (1)(b) of this section, one of the three initial representatives of excavators described in subdivision (1)(c) of this section, and both alternate representatives described in subdivision (1)(d) of this section for two-year terms. The other initial representatives shall be appointed for four-year terms. All succeeding terms shall be for four years. A representative member may be reappointed at the end of such member's term. If there is a vacancy on the committee, the Governor shall appoint a member to serve the remainder of the unexpired term of the vacating member. All representative members shall be subject to approval by the Legislature.

(3) The committee shall select from among its members a chairperson. The committee shall not select an alternate representative to serve as chairperson. The committee shall govern its procedures pursuant to rules and regulations adopted and promulgated by the State Fire Marshal. No representative member shall receive any compensation for services rendered as a member of the

committee but may be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

(4) The committee shall meet not less than monthly and also at such other times and at such places as may be established by the chairperson. The committee may meet by videoconference with approval of a majority of the committee members. Any action taken by the committee shall require a majority vote of the members.

(5)(a) The committee shall (i) review investigations completed pursuant to subdivision (2)(a) of section 76-2325, (ii) determine based on such review whether any person has committed any violation described in subdivision (2)(b) of section 76-2325, and (iii) determine the appropriate civil penalty, if any, to be assessed for such violation consistent with subdivision (2)(b)(ii) of section 76-2325.

(b) No member of the committee who participated in an investigation conducted under subdivision (2)(a) of section 76-2325 shall participate in a hearing upon any question in which such member or any business with which such member is associated is a party.

Source: Laws 2023, LB683, § 8.
Effective date May 27, 2023.

76-2334 Rules and regulations.

The State Fire Marshal shall adopt and promulgate rules and regulations to carry out section 76-2333 and subsection (2) of section 76-2325, including general rules of practice and procedure relating to the committee, training requirements for investigators, and rules governing the investigation process.

Source: Laws 2023, LB683, § 10.
Effective date May 27, 2023.

ARTICLE 36

HOME INSPECTION

Section

76-3602. Registration; required, when; signature requirements; registration, contents; renewal; term.

76-3603. Fee; certificate of insurance.

76-3604. Required information; report changes.

76-3602 Registration; required, when; signature requirements; registration, contents; renewal; term.

(1) Before conducting home inspections in this state, a home inspector shall register with the Secretary of State. If the home inspector is an individual, the home inspector shall sign such registration. If the home inspector is a firm, partnership, corporation, company, association, limited liability company, or other legal entity, an officer or agent of the home inspector shall sign such registration. Such registration shall include:

(a) The name of the home inspector if the home inspector is an individual or the name of the legal entity under which such home inspector proposes to register and transact business in this state;

(b) The address of the home office of the home inspector;

(c) The name and address of the agent for service of process on the home inspector; and

(d) Any national certification relating to home inspection currently held by the home inspector.

(2) A home inspector may apply to renew a registration by submitting an application for renewal in a form prescribed by the Secretary of State within forty-five days prior to the expiration of the registration.

(3) A registration for a home inspector is valid for two years.

Source: Laws 2021, LB423, § 2; Laws 2023, LB531, § 29.
Operative date June 7, 2023.

76-3603 Fee; certificate of insurance.

At the time of registration or renewal of a registration pursuant to section 76-3602, a home inspector shall:

(1) Pay a registration or renewal fee to the Secretary of State. The Secretary of State shall set such registration or renewal fee in an amount sufficient to defray the administrative costs of registration or renewal but not to exceed three hundred dollars. The Secretary of State shall remit such registration or renewal fee to the State Treasurer for credit to the Secretary of State Cash Fund; and

(2) Provide to the Secretary of State a certificate of insurance evidencing coverage in an amount of not less than two hundred fifty thousand dollars for general liability.

Source: Laws 2021, LB423, § 3; Laws 2023, LB531, § 30.
Operative date June 7, 2023.

76-3604 Required information; report changes.

A home inspector shall report a change in information required by section 76-3602 or 76-3603 within forty-five calendar days of such change.

Source: Laws 2021, LB423, § 4; Laws 2023, LB531, § 31.
Operative date June 7, 2023.

CHAPTER 77

REVENUE AND TAXATION

Article.

- 9. Insurance Companies. 77-913.
- 13. Assessment of Property. 77-1344, 77-1347.
- 14. Achieving A Better Life Experience Program. 77-1403.
- 16. Levy and Tax List. 77-1631 to 77-1633.
- 17. Collection of Taxes. 77-1701, 77-1736.06.
- 18. Collection of Delinquent Real Property Taxes by Sale of Real Property. 77-1802 to 77-1838.
- 20. Inheritance Tax. 77-2015.
- 27. Sales and Income Tax.
 - (a) Act, Rates, and Definitions. 77-2701 to 77-2701.56.
 - (b) Sales and Use Tax. 77-2704.12 to 77-2713.
 - (c) Income Tax. 77-2715.03 to 77-2775.
 - (d) General Provisions. 77-27,132.
 - (m) Nebraska Advantage Rural Development Act. 77-27,187.02, 77-27,188.
 - (q) County License or Occupation Tax on Admissions. 77-27,223.
 - (y) Food Bank, Food Pantry, or Food Rescue Donation Credit. 77-27,241.
- 29. Nebraska Job Creation and Mainstreet Revitalization Act. 77-2902 to 77-2912.
- 34. Political Subdivisions, Budget Limitations.
 - (d) Limitation on Property Taxes. 77-3442.
- 35. Homestead Exemption. 77-3506 to 77-3522.
- 36. School Readiness Tax Credit Act. 77-3604 to 77-3606.
- 40. Tobacco Products Tax. 77-4001 to 77-4025.
- 42. Property Tax Credit Act. 77-4212.
- 44. Good Life Transformational Projects Act. 77-4401 to 77-4407.
- 50. Tax Equalization and Review Commission Act. 77-5003 to 77-5015.02.
- 52. Beginning Farmer Tax Credit Act. 77-5203 to 77-5213.
- 58. Nebraska Advantage Research and Development Act. 77-5803 to 77-5808.
- 67. Nebraska Property Tax Incentive Act. 77-6702 to 77-6706.
- 68. ImagiNE Nebraska Act. 77-6801 to 77-6846.
- 70. Motor Fuel Tax Credits.
 - (a) Nebraska Higher Blend Tax Credit Act. 77-7002 to 77-7007.
 - (b) Nebraska Biodiesel Tax Credit Act. 77-7009 to 77-7016.
- 71. Opportunity Scholarships Act. 77-7101 to 77-7113.
- 72. Child Care Tax Credit Act. 77-7201 to 77-7205.

ARTICLE 9

INSURANCE COMPANIES

Section

77-913. Insurance Tax Fund; created; use; investment; allocation.

77-913 Insurance Tax Fund; created; use; investment; allocation.

The Insurance Tax Fund is created. The State Treasurer shall receive the funds paid pursuant to Chapter 77, article 9, and except as provided in sections 77-912 and 77-918 shall keep all money received in the Insurance Tax 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.

Prior to June 1 of each year, the State Treasurer shall disburse or allocate all of the funds in the Insurance Tax Fund on May 1 of each year as follows:

(1) Ten percent of the total shall be allocated to the counties proportionately in the proportion that the population of each county bears to the entire state, as shown by the last federal decennial census;

(2) Thirty percent of the total shall be allocated to the Municipal Equalization Fund; and

(3) Sixty percent of the total shall be allocated to the State Department of Education for distribution to school districts as equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act as follows: The Commissioner of Education shall (a) include the amount certified by the State Treasurer pursuant to this section in the state aid certified to each school district pursuant to section 79-1022 and (b) distribute such funds as equalization aid under the provisions of the act during the ensuing fiscal year.

Source: Laws 1951, c. 256, § 7, p. 880; Laws 1986, LB 1114, § 18; Laws 1990, LB 1090, § 1; Laws 1996, LB 1050, § 1; Laws 1996, LB 1177, § 17; Laws 1997, LB 269, § 36; Laws 1999, LB 113, § 4; Laws 2003, LB 8, § 1; Laws 2023, LB818, § 21.
Effective date May 25, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

ARTICLE 13

ASSESSMENT OF PROPERTY

Section

77-1344. Agricultural or horticultural land; special valuation; when applicable.

77-1347. Agricultural or horticultural lands; special valuation; disqualification.

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, the land must be agricultural or horticultural land and must consist of five acres or more.

(2) 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.

(3) 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; Laws 2021, LB9, § 2; Laws 2023, LB727, § 46.
 Operative date June 7, 2023.

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) Inclusion of the land within the corporate boundaries of any sanitary and improvement district, city, or village, except that this subdivision shall not apply on or after January 1, 2023; or
- (3) The land no longer qualifying as agricultural or horticultural land.

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; Laws 2023, LB727, § 47.
 Operative date June 7, 2023.

ARTICLE 14

ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM

Section

77-1403. Account owner; designated beneficiary; death of designated beneficiary; transfer or distribution of account balances; notice regarding potential tax consequences; state claim or recovery; when prohibited.

77-1403 Account owner; designated beneficiary; death of designated beneficiary; transfer or distribution of account balances; notice regarding potential tax consequences; state claim or recovery; when prohibited.

(1) Unless otherwise permitted under section 529A, the owner of an account shall be the designated beneficiary of the account, except that if the designated beneficiary of the account is a minor or has a custodian or other fiduciary appointed for the purposes of managing such beneficiary’s financial affairs, a custodian or fiduciary for such designated beneficiary may serve as the account owner if such form of ownership is permitted or not prohibited under section 529A.

(2) Unless otherwise permitted under section 529A, the designated beneficiary of an account shall be a resident of the state or of a contracting state. The State Treasurer shall determine residency of Nebraska residents for such purpose in such manner as may be required or permissible under section 529A or, in the absence of any guidance under section 529A, by such other means as the State Treasurer shall consider advisable for purposes of satisfying the requirements of section 529A.

(3) To the extent permitted by federal law, upon the death of a designated beneficiary of an account, the owner of the account or the personal representa-

tive of the designated beneficiary may have the balance of the account transferred to another account under the program specified by the owner of the account, the designated beneficiary, or the estate of the designated beneficiary. If the balance of the account on the date of death is less than or equal to five thousand dollars, the owner of the account or the personal representative of the designated beneficiary may also have the balance of the account distributed to an individual or individuals specified by the designated beneficiary, the owner of the account, or the personal representative of the designated beneficiary.

(4) At the time an account is established under the program and prior to any transfer or distribution pursuant to subsection (3) of this section, the State Treasurer shall notify the owner of the account, the designated beneficiary, and the estate of the designated beneficiary, if applicable, of the potential tax consequences of transferring or distributing funds pursuant to subsection (3) of this section.

(5) Upon the death of a designated beneficiary and after the Department of Health and Human Services has received approval from the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services:

(a) The state shall not seek recovery of any amount remaining in the account of the designated beneficiary for any amount of medical assistance received by the designated beneficiary or his or her spouse or dependent under the medical assistance program pursuant to the Medical Assistance Act after the establishment of the account; and

(b) The state shall not file a claim for the payment under subdivision (f) of section 529A of the Internal Revenue Code, as amended.

Source: Laws 2015, LB591, § 3; Laws 2020, LB705, § 1; Laws 2023, LB727, § 48.

Operative date September 2, 2023.

Cross References

Medical Assistance Act, see section 68-901.

ARTICLE 16

LEVY AND TAX LIST

Section

77-1631. Terms, defined.

77-1632. Property tax request; procedure; public hearing; resolution or ordinance; contents.

77-1633. Property tax request; increase by more than allowable growth percentage; notice and hearing; resolution or ordinance; requirements; certification; county clerk; county assessor; duties.

77-1631 Terms, defined.

For purposes of the Property Tax Request Act:

(1) Allowable growth percentage means a percentage equal to the sum of (a) two percent plus (b) the political subdivision’s real growth percentage;

(2) Excess value means an amount equal to the assessed value of the real property included in a tax increment financing project minus the redevelopment project valuation for such real property;

(3) Property tax request means the total amount of property taxes requested to be raised for a political subdivision through the levy imposed pursuant to section 77-1601, excluding the amount to be levied for the payment of principal or interest on bonds issued or authorized to be issued by a school district;

(4) Real growth percentage means the percentage obtained by dividing (a) the political subdivision's real growth value by (b) the political subdivision's total real property valuation from the prior year;

(5) Real growth value means and includes:

(a) The increase in a political subdivision's real property valuation from the prior year to the current year due to (i) improvements to real property as a result of new construction and additions to existing buildings, (ii) any other improvements to real property which increase the value of such property, (iii) annexation of real property by the political subdivision, and (iv) a change in the use of real property; and

(b) The annual increase in the excess value for any tax increment financing project located in the political subdivision;

(6) Redevelopment project valuation has the same meaning as in section 18-2103; and

(7) Tax increment financing project means a redevelopment project as defined in section 18-2103 that is financed through the division of taxes as provided in section 18-2147.

Source: Laws 2021, LB644, § 2; Laws 2023, LB727, § 49.
Operative date June 7, 2023.

77-1632 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, city, village, 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 to the extent allowed by law 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. If any county, city, school district, or community college seeks to increase its property tax request by more than the allowable growth percentage, such political subdivision shall comply with the requirements of section 77-1633 in lieu of the requirements in subsections (3) and (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, city, village, 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 to the extent allowed by law 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. If any county, city, school district, or community college seeks to increase its property tax request by more than the allowable growth percentage, such political subdivision shall comply with the requirements of section 77-1633 in lieu of the requirements in subsections (3) and (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 under this section 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 (increase or decrease) last year’s budget 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 15 of the year for which the tax request is to apply.

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; R.S.Supp.,2020, § 77-1601.02; Laws 2021, LB528, § 18; Laws 2021, LB644, § 3; Laws 2023, LB243, § 9.
Operative date June 1, 2023.

77-1633 Property tax request; increase by more than allowable growth percentage; notice and hearing; resolution or ordinance; requirements; certification; county clerk; county assessor; duties.

(1) For purposes of this section, political subdivision means any county, city, school district, or community college.

(2) If any political subdivision seeks to increase its property tax request by more than the allowable growth percentage, such political subdivision may do so to the extent allowed by law if:

(a) A public hearing is held and notice of such hearing is provided in compliance with subsection (3) of this section; and

(b) The governing body of such political subdivision passes a resolution or an ordinance that complies with subsection (4) of this section.

(3)(a) Each political subdivision within a county that seeks to increase its property tax request by more than the allowable growth percentage shall participate in a joint public hearing. Each such political subdivision shall designate one representative to attend the joint public hearing on behalf of the political subdivision. If a political subdivision includes area in more than one county, the political subdivision shall be deemed to be within the county in which the political subdivision’s principal headquarters are located. At such hearing, there shall be no items on the agenda other than discussion on each political subdivision’s intent to increase its property tax request by more than the allowable growth percentage.

(b) At least one elected official from each participating political subdivision shall attend the joint public hearing. An elected official may be the designated representative from a participating political subdivision. The presence of a quorum or the participation of elected officials at the joint public hearing does not constitute a meeting as defined by section 84-1409 of the Open Meetings Act.

(c) The joint public hearing shall be held on or after September 14 and prior to September 24 and before any of the participating political subdivisions file their adopted budget statement pursuant to section 13-508.

(d) The joint public hearing shall be held after 6 p.m. local time on the relevant date.

(e) The joint public hearing shall be organized by the county clerk or his or her designee. At the joint public hearing, the designated representative of each political subdivision shall give a brief presentation on the political subdivision's intent to increase its property tax request by more than the allowable growth percentage and the effect of such request on the political subdivision's budget. The presentation shall include:

- (i) The name of the political subdivision;
- (ii) The amount of the property tax request; and
- (iii) The following statements:

(A) The total assessed value of property differs from last year's total assessed value by percent;

(B) 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;

(C) 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;

(D) 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

(E) To obtain more information regarding the increase in the property tax request, citizens may contact the (name of political subdivision) at (telephone number and email address of political subdivision).

(f) Any member of the public shall be allowed to speak at the joint public hearing and shall be given a reasonable amount of time to do so.

(g) Notice of the joint public hearing shall be provided:

(i) By sending a postcard to all affected property taxpayers. The postcard shall be sent to the name and address to which the property tax statement is mailed;

(ii) By posting notice of the hearing on the home page of the relevant county's website, except that this requirement shall only apply if the county has a population of more than ten thousand inhabitants; and

(iii) By publishing notice of the hearing in a legal newspaper in or of general circulation in the relevant county.

(h) Each political subdivision that participates in the joint public hearing shall electronically send the information prescribed in subdivision (3)(i) of this section to the county assessor by September 4. The county clerk shall notify the county assessor of the date, time, and location of the joint public hearing no later than September 4. The county clerk shall notify each participating political subdivision of the date, time, and location of the joint public hearing. The county assessor shall send the information required to be included on the postcards pursuant to subdivision (3)(i) of this section to a printing service designated by the county board. The initial cost for printing the postcards shall be paid from the county general fund. Such postcards shall be mailed at least seven calendar days before the joint public hearing. The cost of creating and mailing the postcards, including staff time, materials, and postage, shall be charged proportionately to the political subdivisions participating in the joint

public hearing based on the total number of parcels in each participating political subdivision. Each participating political subdivision shall also maintain a prominently displayed and easily accessible link on the home page of the political subdivision's website to the political subdivision's proposed budget, except that this requirement shall not apply if the political subdivision is a county with a population of less than ten thousand inhabitants, a city with a population of less than one thousand inhabitants, or, for joint public hearings prior to January 1, 2024, a school district.

(i) The postcard sent under this subsection and the notice posted on the county's website, if required under subdivision (3)(g)(ii) of this section, and published in the newspaper shall include the date, time, and location for the joint public hearing, a listing of and telephone number for each political subdivision that will be participating in the joint public hearing, and the amount of each participating political subdivision's property tax request. The postcard shall also contain the following information:

(i) The following words in capitalized type at the top of the postcard: NOTICE OF PROPOSED TAX INCREASE;

(ii) The name of the county that will hold the joint public hearing, which shall appear directly underneath the capitalized words described in subdivision (3)(i)(i) of this section;

(iii) The following statement: The following political subdivisions are proposing a revenue increase which would result in an overall increase in property taxes in (insert current tax year). THE ACTUAL TAX ON YOUR PROPERTY MAY INCREASE OR DECREASE. This notice contains estimates of the tax on your property as a result of this revenue increase. These estimates are calculated on the basis of the proposed (insert current tax year) data. The actual tax on your property may vary from these estimates.

(iv) The parcel number for the property;

(v) The name of the property owner and the address of the property;

(vi) The property's assessed value in the previous tax year;

(vii) The amount of property taxes due in the previous tax year for each participating political subdivision;

(viii) The property's assessed value for the current tax year;

(ix) The amount of property taxes due for the current tax year for each participating political subdivision;

(x) The change in the amount of property taxes due for each participating political subdivision from the previous tax year to the current tax year; and

(xi) The following statement: To obtain more information regarding the tax increase, citizens may contact the political subdivision at the telephone number provided in this notice.

(4) After the joint public hearing required in subsection (3) of this section, the governing body of each participating political subdivision shall pass an ordinance or resolution to set such political subdivision's property tax request. If the political subdivision is increasing its property tax request over the amount from the prior year, including any increase in excess of the allowable growth percentage, then such ordinance or resolution 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 15 of the year for which the tax request is to apply.
- (6) The county clerk, or his or her designee, shall prepare a report which shall include:
 - (a) The names of the designated representatives of the political subdivisions participating in the joint public hearing;
 - (b) The name and address of each individual who spoke at the joint public hearing, unless the address requirement is waived to protect the security of the individual, and the name of any organization represented by each such individual;
 - (c) The name of each political subdivision that participated in the joint public hearing;
 - (d) The real growth value and real growth percentage for each participating political subdivision;
 - (e) The amount each participating political subdivision seeks to increase its property tax request in excess of the allowable growth percentage; and
 - (f) The number of individuals who signed in to attend the joint public hearing.

Such report shall be delivered to the political subdivisions participating in the joint public hearing within ten days after such hearing.

Source: Laws 2021, LB644, § 4; Laws 2022, LB927, § 10; Laws 2023, LB243, § 10; Laws 2023, LB727, § 50.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB243, section 10, with LB727, section 50, to reflect all amendments.

Note: Changes made by LB243 became operative June 1, 2023. Changes made by LB727 became operative June 7, 2023.

Cross References

Open Meetings Act, see section 84-1407.

**ARTICLE 17
COLLECTION OF TAXES**

Section
77-1701. Collection of taxes; county treasurer tax collector; statements; contents; special assessments; de minimis amount; how treated.

Section
77-1736.06. Property tax refund; procedure.

77-1701 Collection of taxes; county treasurer tax collector; statements; contents; special assessments; de minimis amount; how treated.

(1) The county treasurer shall be ex officio county collector of all taxes levied within the county. The county board shall designate a county official to mail or otherwise deliver a statement of the amount of taxes due and a notice that special assessments are due, to the last-known address of the person, firm, association, or corporation against whom such taxes or special assessments are assessed or to the lending institution or other party responsible for paying such taxes or special assessments. Such statement shall clearly indicate, for each political subdivision, the levy rate and the amount of taxes due as the result of principal or interest payments on bonds issued by the political subdivision and shall show such rate and amount separate from any other levy. When taxes on real property are delinquent for a prior year, the county treasurer shall indicate this information on the current year tax statement in bold letters. The information provided shall inform the taxpayer that delinquent taxes and interest are due for the prior year or years and shall indicate the specific year or years for which such taxes and interest remain unpaid. The language shall read “Back Taxes and Interest Due For”, followed by numbers to indicate each year for which back taxes and interest are due and a statement indicating that failure to pay the back taxes and interest may result in the loss of the real property. Failure to receive such statement or notice shall not relieve the taxpayer from any liability to pay such taxes or special assessments and any interest or penalties accrued thereon. In any county in which a city of the metropolitan class is located, all statements of taxes shall also include notice that special assessments for cutting weeds, removing litter, and demolishing buildings are due.

(2) Notice that special assessments are due shall not be required for special assessments levied by sanitary and improvement districts organized under Chapter 31, article 7, except that such notice may be provided by the county at the discretion of the county board or by the sanitary and improvement district with the approval of the county board.

(3) A statement of the amount of taxes due and a notice that special assessments are due shall not be required to be mailed or otherwise delivered pursuant to subsection (1) of this section if the total amount of the taxes and special assessments due is less than two dollars. Failure to receive the statement or notice shall not relieve the taxpayer from any liability to pay the taxes or special assessments but shall relieve the taxpayer from any liability for interest or penalties. Taxes and special assessments of less than two dollars shall be added to the amount of taxes and special assessments due in subsequent years and shall not be considered delinquent until the total amount is two dollars or more.

Source: Laws 1903, c. 73, § 144, p. 439; R.S.1913, § 6473; C.S.1922, § 5996; C.S.1929, § 77-1901; R.S.1943, § 77-1701; Laws 1969, c. 678, § 1, p. 2604; Laws 1979, LB 150, § 1; Laws 1981, LB 179, § 12; Laws 1983, LB 391, § 4; Laws 1995, LB 412, § 1; Laws 1996, LB 1362, § 8; Laws 1999, LB 194, § 31; Laws 1999, LB 881, § 7; Laws 2000, LB 968, § 60; Laws 2023, LB727, § 51.
Operative date September 2, 2023.

77-1736.06 Property tax refund; procedure.

The following procedure shall apply when making a property tax refund:

(1) Within thirty days of the entry of a final nonappealable order, an unprotested determination of a county assessor, an unappealed decision of a county board of equalization, or other final action requiring a refund of real or personal property taxes paid or, for property valued by the state, within thirty days of a recertification of value by the Property Tax Administrator pursuant to section 77-1775 or 77-1775.01, the county assessor shall determine the amount of refund due the person entitled to the refund, certify that amount to the county treasurer, and send a copy of such certification to the person entitled to the refund. Within thirty days from the date the county assessor certifies the amount of the refund, the county treasurer shall notify each political subdivision, including any school district receiving a distribution pursuant to section 79-1073 and any land bank receiving real property taxes pursuant to subdivision (3)(a) of section 18-3411, of its respective share of the refund, except that for any political subdivision whose share of the refund is two hundred dollars or less, the county board may waive this notice requirement. Notification shall be by first-class mail, postage prepaid, to the last-known address of record of the political subdivision. The county treasurer shall pay the refund from funds in his or her possession belonging to any political subdivision, including any school district receiving a distribution pursuant to section 79-1073 and any land bank receiving real property taxes pursuant to subdivision (3)(a) of section 18-3411, which received any part of the tax or penalty being refunded. If sufficient funds are not available, the county treasurer shall register the refund or portion thereof which remains unpaid as a claim against such political subdivision and shall issue the person entitled to the refund a receipt for the registration of the claim;

(2) The refund of a tax or penalty or the receipt for the registration of a claim made or issued pursuant to this section shall be satisfied in full as soon as practicable. If a receipt for the registration of a claim is given:

(a) The governing body of the political subdivision shall make provisions in its next budget for the amount of such claim; or

(b) If mutually agreed to by the governing body of the political subdivision and the person holding the receipt, such receipt shall be applied to satisfy any tax levied or assessed by that political subdivision which becomes due from the person holding the receipt until the claim is satisfied in full;

(3) The county treasurer shall mail the refund or the receipt by first-class mail, postage prepaid, to the last-known address of the person entitled thereto. Multiple refunds to the same person may be combined into one refund. If a refund is not claimed by June 1 of the year following the year of mailing, the refund shall be canceled and the resultant amount credited to the various funds originally charged;

(4) When the refund involves property valued by the state, the Tax Commissioner shall be authorized to negotiate a settlement of the amount of the refund or claim due pursuant to this section on behalf of the political subdivision from which such refund or claim is due. Any political subdivision which does not agree with the settlement terms as negotiated may reject such terms, and the refund or claim due from the political subdivision then shall be satisfied as set forth in this section as if no such negotiation had occurred;

(5) In the event that the Legislature appropriates state funds to be disbursed for the purposes of satisfying all or any portion of any refund or claim, the Tax Commissioner shall order the county treasurer to disburse such refund amounts directly to the persons entitled to the refund in partial or total satisfaction of such persons' claims. The county treasurer shall disburse such amounts within forty-five days after receipt thereof;

(6) If all or any portion of the refund is reduced by way of settlement or forgiveness by the person entitled to the refund, the proportionate amount of the refund that was paid by an appropriation of state funds shall be reimbursed by the county treasurer to the State Treasurer within forty-five days after receipt of the settlement agreement or receipt of the forgiven refund. The amount so reimbursed shall be credited to the General Fund; and

(7) For any refund or claim due under this section, interest shall accrue on the unpaid balance at the rate of fourteen percent beginning thirty days after the date the county assessor certifies the amount of refund based upon the final nonappealable order or other action approving the refund.

Source: Laws 1991, LB 829, § 15; Laws 1992, LB 1063, § 138; Laws 1992, Second Spec. Sess., LB 1, § 111; Laws 1993, LB 555, § 1; Laws 1995, LB 490, § 167; Laws 2007, LB334, § 82; Laws 2008, LB965, § 18; Laws 2010, LB1070, § 3; Laws 2013, LB97, § 19; Laws 2016, LB1067, § 9; Laws 2020, LB424, § 19; Laws 2021, LB644, § 20; Laws 2023, LB243, § 11.
Operative date September 2, 2023.

**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.
77-1818. Real property taxes; certificate of purchase; lien of purchaser; subsequent taxes; purchaser provide notice; contents; prove service of notice; administrative fee.
77-1824. Real property taxes; redemption from sale; when and how made.
77-1837. Real property taxes; issuance of treasurer's tax deed; when; proceed by foreclosure; when.
77-1838. Real property taxes; issuance of treasurer's tax deed; execution, acknowledgment, and recording; effect; lien for special assessments; pay surplus to previous owner.

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 name of the owner of record of the property, the property's parcel number, if any, and the property's street address, 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; Laws 2023, LB727, § 52.

Operative date September 2, 2023.

77-1818 Real property taxes; certificate of purchase; lien of purchaser; subsequent taxes; purchaser provide notice; contents; prove service of notice; administrative fee.

(1) The purchaser of any real property sold by the county treasurer for taxes shall be entitled to a certificate in writing, describing the real property so purchased, the sum paid, and the time when the purchaser will be entitled to a deed, which certificate shall be signed by the county treasurer in his or her official capacity and shall be presumptive evidence of the regularity of all prior proceedings. Each tax lien shall be shown on a single certificate. The purchaser acquires a perpetual lien of the tax on the real property, and if after the taxes become delinquent he or she subsequently pays any taxes levied on the property, whether levied for any year or years previous or subsequent to such sale, he or she shall have the same lien for them and may add them to the amount paid by him or her in the purchase.

(2) Upon issuance of the certificate, the purchaser shall notify, by personal service, the property owner of the real property that was sold for taxes at the address listed for such owner in the records of the county assessor. The notice shall (a) state that a certificate has been issued, (b) include a brief description of the property owner's legal rights to redeem the real property, (c) identify the real property by the street address listed in the records of the county assessor, (d) include the total amount of taxes, interest, and costs for which the property was sold and a recitation that interest and fees may accrue, and (e) include a prominent warning that failure to act may result in forfeiture of the property after three years. The purchaser shall prove such service of notice by affidavit, and such affidavit shall be filed with the application for the tax deed pursuant to section 77-1837. An administrative fee shall be allowed for any service of notice under this subsection. The administrative fee shall be equal to the greater of one hundred dollars or the actual cost incurred by the purchaser for such service of notice. The amount of such fee 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. The purchaser shall notify the county treasurer of the amount of such fee within thirty days after completion of the service of notice.

Source: Laws 1903, c. 73, § 209, p. 464; R.S.1913, § 6537; C.S.1922, § 6065; C.S.1929, § 77-2017; R.S.1943, § 77-1818; Laws 1992, LB 1063, § 149; Laws 1992, Second Spec. Sess., LB 1, § 122; Laws 2013, LB341, § 5; Laws 2023, LB727, § 53.

Operative date September 2, 2023.

77-1824 Real property taxes; redemption from sale; when and how made.

The owner or occupant of any real property sold for taxes or any person having a lien thereupon or interest therein may redeem the same. The right of

redemption expires when the purchaser files an application for tax deed with the county treasurer. A redemption shall not be accepted by the county treasurer, or considered valid, unless received prior to the close of business on the day the application for the tax deed is received by the county treasurer. Redemption shall be accomplished by paying the county treasurer for the use of such purchaser or his or her heirs or assigns the sum mentioned in his or her certificate, with interest thereon 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 of purchase to date of redemption, together with all other taxes subsequently paid, whether for any year or years previous or subsequent to the sale, and interest thereon at the same rate from date of such payment to date of redemption. The amount due for redemption shall include the issuance fee charged pursuant to section 77-1823 and the administrative fee charged pursuant to subsection (2) of section 77-1818.

Source: Laws 1903, c. 73, § 212, p. 466; Laws 1905, c. 114, § 1, p. 518; R.S.1913, § 6540; C.S.1922, § 6068; Laws 1923, c. 105, § 1, p. 261; Laws 1925, c. 168, § 1, p. 441; C.S.1929, § 77-2020; Laws 1933, c. 136, § 8, p. 520; Laws 1937, c. 167, § 28, p. 658; Laws 1939, c. 98, § 28, p. 445; Laws 1941, c. 157, § 28, p. 629; C.S.Supp.,1941, § 77-2020; R.S.1943, § 77-1824; Laws 1969, c. 646, § 3, p. 2564; Laws 1979, LB 84, § 3; Laws 1981, LB 167, § 45; Laws 1992, LB 1063, § 152; Laws 1992, Second Spec. Sess., LB 1, § 125; Laws 2012, LB370, § 1; Laws 2013, LB341, § 8; Laws 2023, LB727, § 54.

Operative date September 2, 2023.

77-1837 Real property taxes; issuance of treasurer's tax deed; when; proceed by foreclosure; 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 and the requirements of subsection (2) of this section have been met, 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) The affidavit proving personal service of the notice required in subsection (2) of section 77-1818;
- (d) 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
- (e) 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 purchaser or his or her assignee may apply for a tax deed under this section if one hundred ten percent of the assessed value of the real estate described in the tax sale certificate, less the amount that would be needed to redeem such real estate, is twenty-five thousand dollars or less. If such requirement is not met, the purchaser or his or her assignee shall foreclose the lien represented by the tax sale certificate pursuant to section 77-1902.

(3) The failure of the county treasurer to issue the deed of conveyance if requested within the timeframe provided in subsection (1) of 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; Laws 2023, LB727, § 55.
Operative date September 2, 2023.

77-1838 Real property taxes; issuance of treasurer's tax deed; execution, acknowledgment, and recording; effect; lien for special assessments; pay surplus to previous owner.

(1) The deed made by the county treasurer shall be under the official seal of office and acknowledged by the county treasurer before some officer authorized to take the acknowledgment of deeds. When so executed and acknowledged, it shall be recorded in the same manner as other conveyances of real estate. When recorded it shall vest in the grantee and his or her heirs and assigns the title of the property described in the deed, subject to any lien on real estate for special assessments levied by a sanitary and improvement district which special assessments have not been previously offered for sale by the county treasurer.

(2) Within thirty days after recording of the deed, the grantee shall pay the surplus to the previous owner of the property described in the deed. For purposes of this subsection, the surplus shall be calculated as follows:

(a) If the property has been sold since recording of the deed, the surplus shall be equal to the amount received from such sale, minus (i) the amount that would have been needed to redeem such property, (ii) the amount needed to pay all encumbrances on such property, and (iii) an administrative fee of five hundred dollars or reasonable attorney's fees in the event of judicial foreclosure, which may be retained by the grantee to offset the costs incurred in obtaining the deed; or

(b) If the property has not been sold since recording of the deed, the surplus shall be equal to the assessed value of such property, minus (i) the amount that would have been needed to redeem such property, (ii) the amount needed to pay all encumbrances on such property, and (iii) an administrative fee of five hundred dollars or reasonable attorney's fees in the event of judicial foreclosure, which may be retained by the grantee to offset the costs incurred in obtaining the deed.

Source: Laws 1903, c. 73, § 218, p. 469; R.S.1913, § 6546; C.S.1922, § 6074; C.S.1929, § 77-2026; R.S.1943, § 77-1838; Laws 2015, LB277, § 1; Laws 2023, LB727, § 56.
Operative date September 2, 2023.

ARTICLE 20
INHERITANCE TAX

Section

77-2015. Inheritance tax; distribution of proceeds from estate; reports required; contents; department; duties.

77-2015 Inheritance tax; distribution of proceeds from estate; reports required; contents; department; duties.

(1) Each petitioner in a proceeding to determine inheritance tax shall, upon the entry of an order determining inheritance tax, if any, submit a report regarding inheritance taxes to the county treasurer of the county in which the inheritance tax determination was conducted. The report shall be submitted on a form prescribed by the Department of Revenue and shall include the following information:

(a) The amount of inheritance tax revenue generated under section 77-2004 and the number of persons receiving property that was subject to tax under section 77-2004 and on which inheritance tax was assessed;

(b) The amount of inheritance tax revenue generated under section 77-2005 and the number of persons receiving property that was subject to tax under section 77-2005 and on which inheritance tax was assessed;

(c) The amount of inheritance tax revenue generated under section 77-2006 and the number of persons receiving property that was subject to tax under section 77-2006 and on which inheritance tax was assessed; and

(d) The number of persons who do not reside in this state and who received any property that was subject to tax under section 77-2004, 77-2005, or 77-2006 and on which inheritance tax was assessed.

(2) The county treasurer of each county shall compile and submit a report regarding inheritance taxes generated from January 1, 2023, through June 30, 2023, to the Department of Revenue on or before August 1, 2023. Beginning July 1, 2023, the county treasurer of each county shall compile and submit a report regarding annual inheritance taxes generated from July 1 of each year through June 30 of the next year, to the Department of Revenue on or before August 1, 2024, and on or before August 1 of each year thereafter. The reports shall be submitted on a form prescribed by the Department of Revenue and shall include the following information:

(a) The amount of inheritance tax revenue generated under section 77-2004 and the number of persons receiving property that was subject to tax under section 77-2004 and on which inheritance tax was assessed;

(b) The amount of inheritance tax revenue generated under section 77-2005 and the number of persons receiving property that was subject to tax under section 77-2005 and on which inheritance tax was assessed;

(c) The amount of inheritance tax revenue generated under section 77-2006 and the number of persons receiving property that was subject to tax under section 77-2006 and on which inheritance tax was assessed; and

(d) The number of persons who do not reside in this state and who received any property that was subject to tax under section 77-2004, 77-2005, or 77-2006 and on which inheritance tax was assessed.

(3) On or before September 1, 2023, and on or before September 1 of each year thereafter, the Department of Revenue shall compile and aggregate such treasurer reports received from each county and make each county report and a statewide aggregate of such county reports available to the public on the Department of Revenue’s website.

Source: Laws 2022, LB310, § 5; Laws 2023, LB727, § 57.
Operative date June 7, 2023.

ARTICLE 27

SALES AND INCOME TAX

(a) ACT, RATES, AND DEFINITIONS

Section	
77-2701.	Act, how cited.
77-2701.02.	Sales tax; rate.
77-2701.04.	Definitions, where found.
77-2701.41.	Taxpayer, defined.
77-2701.56.	Buyer-based exemption, defined.

(b) SALES AND USE TAX

77-2704.12.	Nonprofit religious, service, educational, or medical organization; exemption; purchasing agents.
77-2704.15.	Purchases by state, schools, or governmental units; exemption; purchasing agents.
77-2704.36.	Agricultural machinery and equipment; net wrap, bailing wire, and twine; exemption.
77-2706.02.	Construction contractor; buyer-based exemption; appointment of purchasing agent; procedure; failure; client; apply for 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.
77-2713.	Sales and use tax; failure to collect; false return; violations; penalty; statute of limitations.

(c) INCOME TAX

77-2715.03.	Individual income tax brackets and rates; Tax Commissioner; duties; tax tables; other taxes; tax rate.
77-2715.07.	Income tax credits.
77-2716.	Income tax; adjustments.
77-2717.	Income tax; estates; trusts; rate; fiduciary return; contents; filing; state income tax; contents; credits.
77-2727.	Income tax; partnership; subject to act; credit; election to file return at entity level; how treated.
77-2730.	Individual; resident estate or trust; income derived from another state; credit.
77-2734.01.	Small business corporation shareholders; limited liability company members; determination of income; credit; Tax Commissioner; powers; return; when required; election to file return at entity level; how treated.
77-2734.02.	Corporate taxpayer; income tax rate; how determined.
77-2734.03.	Income tax; tax credits.
77-2775.	Federal income tax return; modified or amended; change in tax liability owed to this state; taxpayer; duties; partnership; election; effect.

(d) GENERAL PROVISIONS

77-27,132.	Revenue Distribution Fund; created; use; collections under act; disposition.
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Section

(m) NEBRASKA ADVANTAGE RURAL DEVELOPMENT ACT

77-27,187.02. Application; deadline; contents; fee; written agreement; contents.
 77-27,188. Tax credit; allowed; when; amount; repayment.

(q) COUNTY LICENSE OR OCCUPATION TAX ON ADMISSIONS

77-27,223. County; license or occupation tax; authorized; election.

(y) FOOD BANK, FOOD PANTRY, OR FOOD RESCUE DONATION CREDIT

77-27,241. Food bank, food pantry, or food rescue donation; credit; eligibility;
 application; tax credit certification; use.

(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, and 77-27,238 to 77-27,241 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; Laws 2021, LB26, § 1; Laws 2021, LB595, § 2; Laws 2022, LB917, § 1; Laws 2022, LB984, § 1; Laws 2023, LB727, § 58.
 Operative date June 7, 2023.

77-2701.02 Sales tax; rate.

Pursuant to section 77-2715.01:

- (1) Until July 1, 1998, the rate of the sales tax levied pursuant to section 77-2703 shall be five percent;
- (2) Commencing July 1, 1998, and until July 1, 1999, the rate of the sales tax levied pursuant to section 77-2703 shall be four and one-half percent;

(3) Commencing July 1, 1999, and until the start of the first calendar quarter after July 20, 2002, the rate of the sales tax levied pursuant to section 77-2703 shall be five percent;

(4) Commencing on the start of the first calendar quarter after July 20, 2002, the rate of the sales tax levied pursuant to section 77-2703 shall be five and one-half percent; and

(5) Commencing July 1, 2023, the rate of the sales tax levied pursuant to section 77-2703 shall be five and one-half percent, except that such rate shall be two and three-quarters percent on transactions occurring within a good life district as defined in section 77-4403.

Source: Laws 1984, LB 892, § 2; Laws 1986, LB 539, § 2; Laws 1990, LB 1059, § 33; Laws 1998, LB 1104, § 12; Laws 2002, LB 1085, § 2; Laws 2003, LB 759, § 5; Laws 2023, LB727, § 59.
Operative date June 7, 2023.

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 77-2701.56 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; Laws 2021, LB26, § 2; Laws 2021, LB595, § 3; Laws 2022, LB984, § 2; Laws 2023, LB727, § 60.
Operative date June 7, 2023.

77-2701.41 Taxpayer, defined.

Taxpayer means any person subject to a tax imposed by sections 77-2701 to 77-2713.

Source: Laws 1992, LB 871, § 23; R.S.1943, (1996), § 77-2702.22; Laws 2003, LB 282, § 45; Laws 2021, LB26, § 3; Laws 2021, LB595, § 5; Laws 2022, LB984, § 3; Laws 2023, LB727, § 61.
Operative date June 7, 2023.

77-2701.56 Buyer-based exemption, defined.

Buyer-based exemption means an exemption based on who purchases the product. An exemption that is available to all individuals shall not be considered a buyer-based exemption.

Source: Laws 2023, LB727, § 62.
Operative date June 7, 2023.

(b) SALES AND USE TAX

77-2704.12 Nonprofit religious, service, educational, or medical organization; exemption; purchasing agents.

(1) Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of purchases by (a) any nonprofit organization created exclusively for religious purposes, (b) any nonprofit organization providing services exclusively to the blind, (c) any nonprofit private educational institution established under sections 79-1601 to 79-1607, (d) any accredited, nonprofit, privately controlled college or university with its primary campus physically located in Nebraska, (e) any nonprofit (i) hospital, (ii) health clinic when one or more hospitals or the parent corporations of the hospitals own or control the health clinic for the purpose of reducing the cost of health services or when the health clinic receives federal funds through the United States Public Health Service for the purpose of serving populations that are medically underserved, (iii) skilled nursing facility, (iv) intermediate care facility, (v) assisted-living facility, (vi) intermediate care facility for persons with developmental disabilities, (vii) nursing facility, (viii) home health agency, (ix) hospice or hospice service, (x) respite care service, (xi) mental health substance use treatment center licensed under the Health Care Facility Licensure Act, or (xii) center for independent living as defined in 29 U.S.C. 796a, (f) any nonprofit licensed residential child-caring agency, (g) any nonprofit licensed child-placing agency, (h) any nonprofit organization certified by the Department of Health and Human Services to provide community-based services for persons with developmental disabilities, or (i) any nonprofit organization certified or contracted by a regional behavioral health authority or the Division of Behavioral Health of the Department of Health and Human Services to provide community-based mental health or substance use services.

(2) Any organization listed in subsection (1) of this section shall apply for an exemption on forms provided by the Tax Commissioner. The application shall be approved and a numbered certificate of exemption received by the applicant organization in order to be exempt from the sales and use tax.

(3) The appointment of purchasing agents shall be recognized for the purpose of altering the status of the construction contractor as the ultimate consumer of building materials which are physically annexed to the structure and which subsequently belong to the owner of the organization or institution. The appointment of purchasing agents shall be in writing and occur prior to having any building materials annexed to real estate in the construction, improvement, or repair. The contractor who has been appointed as a purchasing agent may apply for a refund of or use as a credit against a future use tax liability the tax paid on inventory items annexed to real estate in the construction, improvement, or repair of a project for a licensed not-for-profit institution.

(4) Any organization listed in subsection (1) of this section which enters into a contract of construction, improvement, or repair upon property annexed to real estate without first issuing a purchasing agent authorization to a contractor or repairperson prior to the building materials being annexed to real estate in the project may apply to the Tax Commissioner for a refund of any sales and use tax paid by the contractor or repairperson on the building materials physically annexed to real estate in the construction, improvement, or repair.

(5) Any person purchasing, storing, using, or otherwise consuming building materials in the performance of any construction, improvement, or repair by or for any institution enumerated in subsection (1) of this section which is licensed upon completion although not licensed at the time of construction or improvement, which building materials are annexed to real estate and which subsequently belong to the owner of the institution, shall pay any applicable sales or use tax thereon. Upon becoming licensed and receiving a numbered certificate of exemption, the institution organized not for profit shall be entitled to a refund of the amount of taxes so paid in the performance of such construction, improvement, or repair and shall submit whatever evidence is required by the Tax Commissioner sufficient to establish the total sales and use tax paid upon the building materials physically annexed to real estate in the construction, improvement, or repair.

Source: Laws 1992, LB 871, § 36; Laws 1993, LB 345, § 42; Laws 1994, LB 977, § 3; Laws 1996, LB 900, § 1063; Laws 2000, LB 819, § 151; Laws 2002, LB 989, § 18; Laws 2004, LB 841, § 1; Laws 2004, LB 1017, § 13; Laws 2005, LB 216, § 6; Laws 2006, LB 1189, § 5; Laws 2008, LB575, § 1; Laws 2011, LB637, § 24; Laws 2012, LB40, § 1; Laws 2012, LB1097, § 1; Laws 2013, LB23, § 43; Laws 2013, LB265, § 46; Laws 2016, LB774, § 3; Laws 2018, LB1034, § 71; Laws 2021, LB528, § 19; Laws 2023, LB727, § 63.

Operative date October 1, 2023.

Cross References

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

77-2704.15 Purchases by state, schools, or governmental units; exemption; purchasing agents.

(1)(a) Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of purchases by the state, including public educational institutions recognized or established under the provisions of Chapter 85, or by any county, township, city, village, rural or suburban fire protection district, city airport authority, county airport authority, joint airport authority, drainage district organized under sections 31-401 to 31-450, sanitary drainage district organized under sections 31-501 to 31-553, land bank created under the Nebraska Municipal Land Bank Act, natural resources district, county agricultural society, elected county fair board, housing agency as defined in section 71-1575 except for purchases for any commercial operation that does not exclusively benefit the residents of an affordable housing project, cemetery created under section 12-101, or joint entity or agency formed by any combination of two or more counties, townships, cities, villages, or other exempt governmental units pursuant to the Interlocal Cooperation Act, the Integrated Solid Waste Management Act, or the Joint Public Agency Act, except for purchases for use in the business of furnishing gas, water, electricity, or heat, or by any irrigation or reclamation district, the irrigation division of any public power and irrigation district, or public schools or learning communities established under Chapter 79.

(b) For purposes of this subsection, purchases by the state or by a governmental unit listed in subdivision (a) of this subsection include purchases by any nonprofit corporation under a lease-purchase agreement, financing lease, or

other instrument which provides for transfer of title to the property to the state or governmental unit upon payment of all amounts due thereunder. If any nonprofit corporation will be making purchases under a lease-purchase agreement, financing lease, or other instrument as part of a project with a total estimated cost that exceeds the threshold amount, then such purchases shall qualify for an exemption under this section only if the question of proceeding with such project has been submitted at a primary, general, or special election held within the governmental unit that will be a party to the lease-purchase agreement, financing lease, or other instrument and has been approved by the voters of such governmental unit or the governmental unit's expenditure towards the project is paid in whole or in part with redevelopment bonds. For purposes of this subdivision, (i) project means the acquisition of real property or the construction of a public building and (ii) threshold amount means the greater of fifty thousand dollars or six-tenths of one percent of the total actual value of real and personal property of the governmental unit that will be a party to the lease-purchase agreement, financing lease, or other instrument as of the end of the governmental unit's prior fiscal year.

(2) The appointment of purchasing agents shall be recognized for the purpose of altering the status of the construction contractor as the ultimate consumer of building materials which are physically annexed to the structure and which subsequently belong to the state or the governmental unit. The appointment of purchasing agents shall be in writing and occur prior to having any building materials annexed to real estate in the construction, improvement, or repair. The contractor who has been appointed as a purchasing agent may apply for a refund of or use as a credit against a future use tax liability the tax paid on inventory items annexed to real estate in the construction, improvement, or repair of a project for the state or a governmental unit.

(3) Any governmental unit listed in subsection (1) of this section, except the state, which enters into a contract of construction, improvement, or repair upon property annexed to real estate without first issuing a purchasing agent authorization to a contractor or repairperson prior to the building materials being annexed to real estate in the project may apply to the Tax Commissioner for a refund of any sales and use tax paid by the contractor or repairperson on the building materials physically annexed to real estate in the construction, improvement, or repair.

Source: Laws 1992, LB 871, § 39; Laws 1993, LB 345, § 44; Laws 1994, LB 977, § 5; Laws 1994, LB 1207, § 16; Laws 1999, LB 87, § 86; Laws 1999, LB 232, § 1; Laws 2000, LB 557, § 1; Laws 2002, LB 123, § 1; Laws 2004, LB 1017, § 14; Laws 2006, LB 1189, § 6; Laws 2009, LB392, § 8; Laws 2011, LB252, § 2; Laws 2012, LB902, § 2; Laws 2013, LB97, § 26; Laws 2015, LB52, § 1; Laws 2016, LB774, § 5; Laws 2022, LB800, § 343; Laws 2023, LB727, § 64.

Operative date July 1, 2023.

Cross References

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

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

Nebraska Municipal Land Bank Act, see section 18-3401.

77-2704.36 Agricultural machinery and equipment; net wrap, baling wire, and twine; exemption.

(1) Sales and use tax shall not be imposed on the gross receipts from the sale, lease, or rental of:

(a) Depreciable agricultural machinery and equipment purchased, leased, or rented on or after January 1, 1993, for use in commercial agriculture; or

(b) Net wrap, baling wire, and twine purchased for use in commercial agriculture.

(2) For purposes of this section:

(a)(i) Agricultural machinery and equipment means tangible personal property that is used directly in (A) cultivating or harvesting a crop, (B) raising or caring for animal life, (C) protecting the health and welfare of animal life, including fans, curtains, and climate control equipment within livestock buildings, or (D) collecting or processing an agricultural product on a farm or ranch, regardless of the degree of attachment to any real property; and

(ii) Agricultural machinery and equipment includes, but is not limited to, header trailers, head haulers, header transports, and seed tender trailers and excludes any current tractor model as defined in section 2-2701.01 not permitted for sale in Nebraska pursuant to sections 2-2701 to 2-2711;

(b) Baling wire means wire used in the baling of livestock feed or bedding;

(c) Net wrap means plastic wrap used in the baling of livestock feed or bedding; and

(d) Twine means a strong string of two or more strands twisted together used in the baling of livestock feed or bedding.

Source: Laws 1992, Fourth Spec. Sess., LB 1, § 24; Laws 2004, LB 1017, § 17; Laws 2012, LB907, § 6; Laws 2021, LB595, § 6; Laws 2022, LB984, § 5; Laws 2023, LB727, § 65.

Operative date October 1, 2023.

77-2706.02 Construction contractor; buyer-based exemption; appointment of purchasing agent; procedure; failure; client; apply for refund.

(1) This section applies on and after July 1, 2026.

(2) The appointment of purchasing agents shall be recognized for the purpose of permitting a construction contractor to purchase materials tax free based on the buyer-based exemption of the contractor's client for items that are physically annexed to the structure and which subsequently belong to the client who is eligible for the buyer-based exemption. The appointment of purchasing agents shall be in writing and occur prior to having any buyer-based tax-exempt items annexed to real estate in the construction, improvement, or repair. The contractor who has been appointed as a purchasing agent may purchase the materials tax free or may apply for a refund of or use as a credit against a future use tax liability the tax paid on inventory items annexed to real estate in the construction, improvement, or repair of a project that belongs to the client who is eligible for the buyer-based exemption.

(3) A client described in subsection (2) of this section which enters into a contract of construction, improvement, or repair with respect to buyer-based tax-exempt items annexed to real estate without first issuing a purchasing agent authorization to a construction contractor prior to such items being annexed to

real estate in the project may apply to the Tax Commissioner for a refund of any sales and use tax paid by the contractor on such items physically annexed to real estate in the construction, improvement, or repair.

Source: Laws 2023, LB727, § 66.

Operative date June 7, 2023.

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, 77-5731, 77-6837, 77-6839, or 77-6928, 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 permitholders 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. The individual certified under subdivision (b) of this subsection shall review such returns and return information only upon the premises of the department, except that such limitation shall not apply if the certifying municipality has an agreement in effect under the Nebraska Advantage Transformational Tourism and Redevelopment Act. In such case, the individual certified under subdivision (b) of this subsection may request that copies of such returns and return information be sent to him or her by electronic transmission, secured in a manner as determined by the Tax Commissioner.

(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 website 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; Laws 2020, LB236, § 1; Laws 2020, LB1107, § 129; Laws 2021, LB26, § 5; Laws 2021, LB544, § 31; Laws 2021, LB595, § 8; Laws 2022, LB984, § 8; Laws 2023, LB727, § 67.

Operative date June 7, 2023.

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 Advantage Transformational Tourism and Redevelopment Act, see section 77-1001.

Nebraska Visitors Development Act, see section 81-3701.

77-2713 Sales and use tax; failure to collect; false return; violations; penalty; statute of limitations.

(1) Any person required under the provisions of sections 77-2701.04 to 77-2713 to collect, account for, or pay over any tax imposed by the Nebraska Revenue Act of 1967 who willfully fails to collect or truthfully account for or pay over such tax and any person who willfully attempts in any manner to evade any tax imposed by such provisions of such act or the payment thereof shall, in addition to other penalties provided by law, be guilty of a Class IV felony.

(2) Any person who willfully aids or assists in, procures, counsels, or advises the preparation or presentation of a false or fraudulent return, affidavit, claim, or document under or in connection with any matter arising under sections 77-2701.04 to 77-2713 shall, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document, be guilty of a Class IV felony.

(3) A person who engages in business as a retailer in this state without a permit or permits or after a permit has been suspended and each officer of any corporation which so engages in business shall be guilty of a Class IV misdemeanor. Each day of such operation shall constitute a separate offense.

(4) Any person who gives a resale certificate to the seller for property which he or she knows, at the time of purchase, is purchased for the purpose of use rather than for the purpose of resale, lease, or rental by him or her in the regular course of business shall be guilty of a Class IV misdemeanor.

(5) Any violation of the provisions of sections 77-2701.04 to 77-2713, except as otherwise provided, shall be a Class IV misdemeanor.

(6) Any prosecution under sections 77-2701.04 to 77-2713 shall be instituted within three years after the commission of the offense. If such offense is the failure to do an act required by any of such sections to be done before a certain date, a prosecution for such offense may be commenced not later than three years after such date. The failure to do any act required by sections 77-2701.04 to 77-2713 shall be deemed an act committed in part at the principal office of the Tax Commissioner. Any prosecution under the provisions of the Nebraska Revenue Act of 1967 may be conducted in any county where the person or corporation to whose liability the proceeding relates resides or has a place of business or in any county in which such criminal act is committed. The Attorney General shall have concurrent jurisdiction with the county attorney in the prosecution of any offenses under the provisions of the Nebraska Revenue Act of 1967.

Source: Laws 1967, c. 487, § 13, p. 1574; Laws 1977, LB 39, § 240; Laws 1989, LB 459, § 1; Laws 1992, LB 871, § 62; Laws 2003, LB 282, § 78; Laws 2021, LB26, § 6; Laws 2021, LB595, § 9; Laws 2022, LB984, § 9; Laws 2023, LB727, § 68.
Operative date June 7, 2023.

(c) INCOME TAX

77-2715.03 Individual income tax brackets and rates; Tax Commissioner; duties; tax tables; other taxes; tax rate.

(1) For taxable years beginning or deemed to begin on or after January 1, 2013, and before January 1, 2014, the following brackets and rates are hereby established for the Nebraska individual income tax:

Individual Income Tax Brackets and Rates

Bracket Number	Single Individuals	Married, Filing Jointly	Head of Household	Married, Filing Separate	Estates and Trusts	Tax Rate
1	\$0-2,399	\$0-4,799	\$0-4,499	\$0-2,399	\$0-499	2.46%
2	\$2,400-17,499	\$4,800-34,999	\$4,500-27,999	\$2,400-17,499	\$500-4,699	3.51%
3	\$17,500-26,999	\$35,000-53,999	\$28,000-39,999	\$17,500-26,999	\$4,700-15,149	5.01%
4	\$27,000 and Over	\$54,000 and Over	\$40,000 and Over	\$27,000 and Over	\$15,150 and Over	6.84%

(2)(a) For taxable years beginning or deemed to begin on or after January 1, 2014, the following brackets and rates are hereby established for the Nebraska individual income tax:

Individual Income Tax Brackets and Rates

Bracket Number	Single Individuals	Married, Filing Jointly	Head of Household	Married, Filing Separate	Estates and Trusts	Tax Rate
1	\$0-2,999	\$0-5,999	\$0-5,599	\$0-2,999	\$0-499	2.46%
2	\$3,000-17,999	\$6,000-35,999	\$5,600-28,799	\$3,000-17,999	\$500-4,699	3.51%
3	\$18,000-28,999	\$36,000-57,999	\$28,800-42,999	\$18,000-28,999	\$4,700-15,149	Rate Three
4	\$29,000 and Over	\$58,000 and Over	\$43,000 and Over	\$29,000 and Over	\$15,150 and Over	Rate Four

(b) For purposes of this subsection, rate three shall be:

- (i) 5.01% for taxable years beginning or deemed to begin on or after January 1, 2014, and before January 1, 2026;
- (ii) 4.55% for taxable years beginning or deemed to begin on or after January 1, 2026, and before January 1, 2027; and
- (iii) 3.99% for taxable years beginning or deemed to begin on or after January 1, 2027.

(c) For purposes of this subsection, rate four shall be:

- (i) 6.84% for taxable years beginning or deemed to begin on or after January 1, 2014, and before January 1, 2023;
- (ii) 6.64% for taxable years beginning or deemed to begin on or after January 1, 2023, and before January 1, 2024;
- (iii) 5.84% for taxable years beginning or deemed to begin on or after January 1, 2024, and before January 1, 2025;

(iv) 5.20% for taxable years beginning or deemed to begin on or after January 1, 2025, and before January 1, 2026;

(v) 4.55% for taxable years beginning or deemed to begin on or after January 1, 2026, and before January 1, 2027; and

(vi) 3.99% for taxable years beginning or deemed to begin on or after January 1, 2027.

(3)(a) For taxable years beginning or deemed to begin on or after January 1, 2015, the minimum and maximum dollar amounts for each income tax bracket provided in subsection (2) of this section shall be adjusted for inflation by the percentage determined under subdivision (3)(b) of this section. The rate applicable to any such income tax bracket shall not be changed as part of any adjustment under this subsection. The minimum and maximum dollar amounts for each income tax bracket as adjusted shall be rounded to the nearest ten-dollar amount. If the adjusted amount for any income tax bracket ends in a five, it shall be rounded up to the nearest ten-dollar amount.

(b)(i) For taxable years beginning or deemed to begin on or after January 1, 2015, and before January 1, 2018, the Tax Commissioner shall adjust the income tax brackets 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, except that in section 1(f)(3)(B) of the code the year 2013 shall be substituted for the year 1992. For 2015, the Tax Commissioner shall then determine the percent change from the twelve months ending on August 31, 2013, to the twelve months ending on August 31, 2014, and in each subsequent year, from the twelve months ending on August 31, 2013, to the twelve months ending on August 31 of the year preceding the taxable year. The Tax Commissioner shall prescribe new tax rate schedules that apply in lieu of the schedules set forth in subsection (2) of this section.

(ii) For taxable years beginning or deemed to begin on or after January 1, 2018, the Tax Commissioner shall adjust the income tax brackets 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, 2016, to the twelve months ending on August 31 of the year preceding the taxable year. The Tax Commissioner shall prescribe new tax rate schedules that apply in lieu of the schedules set forth in subsection (2) of this section.

(4) Whenever the tax brackets or tax rates are changed by the Legislature, the Tax Commissioner shall update the tax rate schedules to reflect the new tax brackets or tax rates and shall publish such updated schedules.

(5) The Tax Commissioner shall prepare, from the rate schedules, tax tables which can be used by a majority of the taxpayers to determine their Nebraska tax liability. The design of the tax tables shall be determined by the Tax Commissioner. The size of the tax table brackets may change as the level of income changes. The difference in tax between two tax table brackets shall not exceed fifteen dollars. The Tax Commissioner may build the personal exemption credit and standard deduction amounts into the tax tables.

(6) For taxable years beginning or deemed to begin on or after January 1, 2013, the tax rate applied to other federal taxes included in the computation of the Nebraska individual income tax shall be 29.6 percent.

(7) The Tax Commissioner may require by rule and regulation that all taxpayers shall use the tax tables if their income is less than the maximum income included in the tax tables.

Source: Laws 2012, LB970, § 5; Laws 2014, LB987, § 1; Laws 2018, LB1090, § 1; Laws 2022, LB873, § 1; Laws 2023, LB754, § 7.
Effective date June 1, 2023.

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 sections 77-27,238 and 77-27,240;

(g) A credit as provided in the Affordable Housing Tax Credit Act;

(h) A credit to grocery store retailers, restaurants, and agricultural producers as provided in section 77-27,241; and

(i) A credit as provided in the Opportunity Scholarships 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.

(8) There shall be allowed to all individuals refundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, and the Renewable Chemical Production Tax Credit Act.

(9)(a) For taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended, a refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 shall be allowed to the parent of a stillborn child if:

(i) A fetal death certificate is filed pursuant to subsection (1) of section 71-606 for such child;

(ii) Such child had advanced to at least the twentieth week of gestation; and

(iii) Such child would have been a dependent of the individual claiming the credit.

(b) The amount of the credit shall be two thousand dollars.

(c) The credit shall be allowed for the taxable year in which the stillbirth occurred.

(10) There shall be allowed to all individuals refundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in section 77-7203 and nonrefundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in section 77-7204.

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; Laws 2020, LB1107, § 130; Laws 2021, LB432, § 11; Laws 2022, LB917, § 3; Laws 2022, LB1261, § 10; Laws 2023, LB727, § 69; Laws 2023, LB753, § 14; Laws 2023, LB754, § 8.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB727, section 69, with LB753, section 14, and LB754, section 8, to reflect all amendments.

Note: Changes made by LB727 became operative September 2, 2023. Changes made by LB753 became operative January 1, 2024. Changes made by LB754 became effective June 1, 2023.

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 Biodiesel Tax Credit Act, see section 77-7009.

Nebraska Higher Blend Tax Credit Act, see section 77-7001.

Nebraska Job Creation and Mainstreet Revitalization Act, see section 77-2901.

Nebraska Property Tax Incentive Act, see section 77-6701.

New Markets Job Growth Investment Act, see section 77-1101.

Opportunity Scholarships Act, see section 77-7101.

Renewable Chemical Production Tax Credit Act, see section 77-6601.

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) For taxable years beginning or deemed to begin on or after January 1, 2021, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced, to the extent included in the adjusted gross income of an individual, by the amount of any contribution made by the individual's employer into an account under the Nebraska educational savings plan trust owned by the individual, not to exceed five thousand dollars per married filing separate return or ten thousand dollars for any other return.

(d) 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, and before January 1, 2024, 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, and before January 1, 2024, 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.

(c) For taxable years beginning or deemed to begin on or after January 1, 2021, and before January 1, 2024, under the Internal Revenue Code of 1986, as amended, a taxpayer may claim the reduction to federal adjusted gross income allowed under this subsection or the reduction to federal adjusted gross income allowed under subsection (14) of this section, whichever provides the greater reduction.

(14)(a) For taxable years beginning or deemed to begin on or after January 1, 2021, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by a percentage of the social security benefits that are received and included in federal adjusted gross income. The pertinent percentage shall be:

(i) Five percent for taxable years beginning or deemed to begin on or after January 1, 2021, and before January 1, 2022, under the Internal Revenue Code of 1986, as amended;

(ii) Forty percent for taxable years beginning or deemed to begin on or after January 1, 2022, and before January 1, 2023, under the Internal Revenue Code of 1986, as amended;

(iii) Sixty percent for taxable years beginning or deemed to begin on or after January 1, 2023, and before January 1, 2024, under the Internal Revenue Code of 1986, as amended; and

(iv) One hundred percent for taxable years beginning or deemed to begin on or after January 1, 2024, under the Internal Revenue Code of 1986, as amended.

(b) For purposes of this subsection, social security benefits means benefits received under the federal Social Security Act.

(c) For taxable years beginning or deemed to begin on or after January 1, 2021, and before January 1, 2024, under the Internal Revenue Code of 1986, as amended, a taxpayer may claim the reduction to federal adjusted gross income allowed under this subsection or the reduction to federal adjusted gross income allowed under subsection (13) of this section, whichever provides the greater reduction.

(15)(a) For taxable years beginning or deemed to begin on or after January 1, 2015, and before January 1, 2022, 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 subdivision. 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.

(b) For taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended, an individual may exclude one hundred percent of the military retirement benefit income received by such individual to the extent included in federal adjusted gross income.

(c) 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. The term includes retirement benefits described in this subdivision that are reported to the individual on either:

(i) An Internal Revenue Service Form 1099-R received from the United States Department of Defense; or

(ii) An Internal Revenue Service Form 1099-R received from the United States Office of Personnel Management.

(16) For taxable years beginning or deemed to begin on or after January 1, 2021, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by the amount received as a Segal AmeriCorps Education Award, to the extent such amount is included in federal adjusted gross income.

(17) For taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by the amount received by or on behalf of a firefighter for cancer benefits under the Firefighter Cancer Benefits Act to the extent included in federal adjusted gross income.

(18) There shall be subtracted from the federal adjusted gross income of individuals any amount received by the individual as student loan repayment assistance under the Teach in Nebraska Today Act, to the extent such amount is included in federal adjusted gross income.

(19) For taxable years beginning or deemed to begin on or after January 1, 2023, under the Internal Revenue Code of 1986, as amended, a retired individual who was employed full time as a firefighter or certified law enforcement officer for at least twenty years and who is at least sixty years of age as of the end of the taxable year may reduce his or her federal adjusted gross income by the amount of health insurance premiums paid by such individual during the taxable year, to the extent such premiums were not already deducted in determining the individual's federal adjusted gross income.

(20) For taxable years beginning or deemed to begin on or after January 1, 2024, under the Internal Revenue Code of 1986, as amended, an individual may reduce his or her federal adjusted gross income by the amounts received as annuities under the Federal Employees Retirement System or the Civil Service Retirement System which were earned for being employed by the federal government, to the extent such amounts are included in federal adjusted gross income.

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; Laws 2020, LB153, § 1; Laws 2020, LB477, § 1; Laws 2020, LB1042, § 2;

Laws 2021, LB64, § 1; Laws 2021, LB387, § 1; Laws 2021, LB432, § 12; Laws 2022, LB873, § 2; Laws 2022, LB1218, § 9; Laws 2022, LB1273, § 1; Laws 2023, LB727, § 70; Laws 2023, LB754, § 9.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB727, section 70, with LB754, section 9, to reflect all amendments.

Note: Changes made by LB727 became operative September 2, 2023. Changes made by LB754 became effective June 1, 2023.

Cross References

Firefighter Cancer Benefits Act, see section 35-1002.

Long-Term Care Savings Plan Act, see section 77-6101.

Nebraska Uniform Limited Liability Company Act, see section 21-101.

Teach in Nebraska Today Act, see section 79-8,146.

77-2717 Income tax; estates; trusts; rate; fiduciary return; contents; filing; state income tax; contents; credits.

(1)(a)(i) For taxable years beginning or deemed to begin before January 1, 2014, the tax imposed on all resident estates and trusts shall be a percentage of the federal taxable income of such estates and trusts as modified in section 77-2716, plus a percentage of the federal alternative minimum tax and the federal tax on premature or lump-sum distributions from qualified retirement plans. The additional taxes shall be recomputed by (A) substituting Nebraska taxable income for federal taxable income, (B) calculating what the federal alternative minimum tax would be on Nebraska taxable income and adjusting such calculations for any items which are reflected differently in the determination of federal taxable income, and (C) applying Nebraska rates to the result. The federal credit for prior year minimum tax, after the recomputations required by the Nebraska Revenue Act of 1967, and the credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all resident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska Advantage Research and Development Act. A nonrefundable income tax credit shall be allowed for all resident estates and trusts as provided in the New Markets Job Growth Investment Act.

(ii) For taxable years beginning or deemed to begin on or after January 1, 2014, the tax imposed on all resident estates and trusts shall be a percentage of the federal taxable income of such estates and trusts as modified in section 77-2716, plus a percentage of the federal tax on premature or lump-sum distributions from qualified retirement plans. The additional taxes shall be recomputed by substituting Nebraska taxable income for federal taxable income and applying Nebraska rates to the result. The credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all resident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, and the Renewable Chemical Production Tax Credit Act. A nonrefundable income tax credit shall be allowed for all resident estates and trusts as provided in the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Child Care Tax Credit

Act, the Affordable Housing Tax Credit Act, the Opportunity Scholarships Act, and sections 77-27,238, 77-27,240, and 77-27,241.

(b) The tax imposed on all nonresident estates and trusts shall be the portion of the tax imposed on resident estates and trusts which is attributable to the income derived from sources within this state. The tax which is attributable to income derived from sources within this state shall be determined by multiplying the liability to this state for a resident estate or trust with the same total income by a fraction, the numerator of which is the nonresident estate's or trust's Nebraska income as determined by sections 77-2724 and 77-2725 and the denominator of which is its total federal income after first adjusting each by the amounts provided in section 77-2716. The federal credit for prior year minimum tax, after the recomputations required by the Nebraska Revenue Act of 1967, reduced by the percentage of the total income which is attributable to income from sources outside this state, and the credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all nonresident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, and the Renewable Chemical Production Tax Credit Act. A nonrefundable income tax credit shall be allowed for all nonresident estates and trusts as provided in the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Child Care Tax Credit Act, the Affordable Housing Tax Credit Act, the Opportunity Scholarships Act, and sections 77-27,238, 77-27,240, and 77-27,241.

(2) In all instances wherein a fiduciary income tax return is required under the provisions of the Internal Revenue Code, a Nebraska fiduciary return shall be filed, except that a fiduciary return shall not be required to be filed regarding a simple trust if all of the trust's beneficiaries are residents of the State of Nebraska, all of the trust's income is derived from sources in this state, and the trust has no federal tax liability. The fiduciary shall be responsible for making the return for the estate or trust for which he or she acts, whether the income be taxable to the estate or trust or to the beneficiaries thereof. The fiduciary shall include in the return a statement of each beneficiary's distributive share of net income when such income is taxable to such beneficiaries.

(3) The beneficiaries of such estate or trust who are residents of this state shall include in their income their proportionate share of such estate's or trust's federal income and shall reduce their Nebraska tax liability by their proportionate share of the credits as provided in the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Child Care Tax Credit Act, the Affordable Housing Tax Credit Act, the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, the Renewable Chemical Production Tax Credit Act, the Opportunity Scholarships Act, and sections 77-27,238, 77-27,240, and 77-27,241. There shall be allowed to a beneficiary a refundable income tax credit under the Beginning Farmer

Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2001, under the Internal Revenue Code of 1986, as amended.

(4) If any beneficiary of such estate or trust is a nonresident during any part of the estate's or trust's taxable year, he or she shall file a Nebraska income tax return which shall include (a) in Nebraska adjusted gross income that portion of the estate's or trust's Nebraska income, as determined under sections 77-2724 and 77-2725, allocable to his or her interest in the estate or trust and (b) a reduction of the Nebraska tax liability by his or her proportionate share of the credits as provided in the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Child Care Tax Credit Act, the Affordable Housing Tax Credit Act, the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, the Renewable Chemical Production Tax Credit Act, the Opportunity Scholarships Act, and sections 77-27,238, 77-27,240, and 77-27,241 and shall execute and forward to the fiduciary, on or before the original due date of the Nebraska fiduciary return, an agreement which states that he or she will file a Nebraska income tax return and pay income tax on all income derived from or connected with sources in this state, and such agreement shall be attached to the Nebraska fiduciary return for such taxable year.

(5) In the absence of the nonresident beneficiary's executed agreement being attached to the Nebraska fiduciary return, the estate or trust shall remit a portion of such beneficiary's income which was derived from or attributable to Nebraska sources with its Nebraska return for the taxable year. For taxable years beginning or deemed to begin before January 1, 2013, the amount of remittance, in such instance, shall be the highest individual income tax rate determined under section 77-2715.02 multiplied by the nonresident beneficiary's share of the estate or trust income which was derived from or attributable to sources within this state. For taxable years beginning or deemed to begin on or after January 1, 2013, the amount of remittance, in such instance, shall be the highest individual income tax rate determined under section 77-2715.03 multiplied by the nonresident beneficiary's share of the estate or trust income which was derived from or attributable to sources within this state. The amount remitted shall be allowed as a credit against the Nebraska income tax liability of the beneficiary.

(6) The Tax Commissioner may allow a nonresident beneficiary to not file a Nebraska income tax return if the nonresident beneficiary's only source of Nebraska income was his or her share of the estate's or trust'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 estate or trust has remitted the amount required by subsection (5) of this section on behalf of such nonresident beneficiary. The amount remitted shall be retained in satisfaction of the Nebraska income tax liability of the nonresident beneficiary.

(7) For purposes of this section, unless the context otherwise requires, simple trust shall mean any trust instrument which (a) requires that all income shall be distributed currently to the beneficiaries, (b) does not allow amounts to be paid, permanently set aside, or used in the tax year for charitable purposes, and (c)

does not distribute amounts allocated in the corpus of the trust. Any trust which does not qualify as a simple trust shall be deemed a complex trust.

(8) For purposes of this section, any beneficiary of an estate or trust that is a grantor trust of a nonresident shall be disregarded and this section shall apply as though the nonresident grantor was the beneficiary.

Source: Laws 1967, c. 487, § 17, p. 1579; Laws 1969, c. 690, § 1, p. 2683; Laws 1973, LB 531, § 1; Laws 1985, LB 273, § 51; Laws 1987, LB 523, § 21; Laws 1991, LB 773, § 14; Laws 1994, LB 977, § 14; Laws 2000, LB 1223, § 1; Laws 2001, LB 433, § 5; Laws 2005, LB 312, § 13; Laws 2006, LB 1003, § 6; Laws 2007, LB367, § 22; Laws 2008, LB915, § 1; Laws 2011, LB389, § 13; Laws 2012, LB970, § 6; Laws 2012, LB1128, § 23; Laws 2013, LB308, § 2; Laws 2014, LB191, § 18; Laws 2016, LB774, § 8; Laws 2016, LB884, § 20; Laws 2016, LB889, § 11; Laws 2020, LB1107, § 131; Laws 2022, LB917, § 4; Laws 2022, LB1261, § 11; Laws 2023, LB727, § 71; Laws 2023, LB753, § 15; Laws 2023, LB754, § 10.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB727, section 71, with LB753, section 15, and LB754, section 10, to reflect all amendments.

Note: Changes made by LB727 became operative September 2, 2023. Changes made by LB753 became operative January 1, 2024. Changes made by LB754 became effective June 1, 2023.

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.
Child Care Tax Credit Act, see section 77-7201.
Nebraska Advantage Microenterprise Tax Credit Act, see section 77-5901.
Nebraska Advantage Research and Development Act, see section 77-5801.
Nebraska Biodiesel Tax Credit Act, see section 77-7009.
Nebraska Higher Blend Tax Credit Act, see section 77-7001.
Nebraska Job Creation and Mainstreet Revitalization Act, see section 77-2901.
Nebraska Property Tax Incentive Act, see section 77-6701.
New Markets Job Growth Investment Act, see section 77-1101.
Opportunity Scholarships Act, see section 77-7101.
Renewable Chemical Production Tax Credit Act, see section 77-6601.
School Readiness Tax Credit Act, see section 77-3601.

77-2727 Income tax; partnership; subject to act; credit; election to file return at entity level; how treated.

(1) Except as provided in subsection (6) of this section and subsection (5) of section 77-2775, a partnership as such shall not be subject to the income tax imposed by the Nebraska Revenue Act of 1967. Persons or their authorized representatives carrying on business as partners shall be liable for the income tax imposed by the Nebraska Revenue Act of 1967 only in their separate or individual capacities.

(2) The partners of such partnership who are residents of this state or corporations shall include in their incomes their proportionate share of such partnership's income.

(3) If any partner of such partnership is a nonresident individual during any part of the partnership's reporting year, he or she shall file a Nebraska income tax return which shall include in Nebraska adjusted gross income that portion of the partnership's Nebraska income, as determined under the provisions of sections 77-2728 and 77-2729, allocable to his or her interest in the partnership and shall execute and forward to the partnership, on or before the original due date of the Nebraska partnership return, an agreement which states that he or

she will file a Nebraska income tax return and pay income tax on all income derived from or attributable to sources in this state, and such agreement shall be attached to the partnership's Nebraska return for such reporting year.

(4)(a) Except as provided in subdivision (c) of this subsection, in the absence of the nonresident individual partner's executed agreement being attached to the Nebraska partnership return, the partnership shall remit a portion of such partner's income which was derived from or attributable to Nebraska sources with its Nebraska return for the reporting year. For tax years beginning or deemed to begin before January 1, 2013, the amount of remittance, in such instance, shall be the highest individual income tax rate determined under section 77-2715.02 multiplied by the nonresident individual partner's share of the partnership income which was derived from or attributable to sources within this state. For tax years beginning or deemed to begin on or after January 1, 2013, the amount of remittance, in such instance, shall be the highest individual income tax rate determined under section 77-2715.03 multiplied by the nonresident individual partner's share of the partnership income which was derived from or attributable to sources within this state.

(b) Any amount remitted on behalf of any partner shall be allowed as a credit against the Nebraska income tax liability of the partner.

(c) Subdivision (a) of this subsection does not apply to a publicly traded partnership as defined by section 7704(b) of the Internal Revenue Code of 1986, as amended, that is treated as a partnership for the purposes of the code and that has agreed to file an annual information return with the Department of Revenue reporting the name, address, taxpayer identification number, and other information requested by the department of each unit holder with an income in the state in excess of five hundred dollars.

(5) The Tax Commissioner may allow a nonresident individual partner to not file a Nebraska income tax return if the nonresident individual partner's only source of Nebraska income was his or her share of the partnership'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 partnership has remitted the amount required by subsection (4) of this section on behalf of such nonresident individual partner. The amount remitted shall be retained in satisfaction of the Nebraska income tax liability of the nonresident individual partner.

(6) Notwithstanding any provision of this section to the contrary:

(a) For tax years beginning or deemed to begin on or after January 1, 2018, a partnership may annually make an irrevocable election to pay the taxes, interest, or penalties levied by the Nebraska Revenue Act of 1967 at the entity level for the taxable period covered by such return. For tax years beginning on or after January 1, 2023, such election must be made on or before the due date for filing the applicable income tax return, including any extensions that have been granted;

(b) An electing partnership with respect to a taxable period shall pay an income tax equivalent to the highest individual income tax rate provided in section 77-2715.03 multiplied by the electing partnership's net income as apportioned or allocated to this state in accordance with the Nebraska Revenue Act of 1967, for such taxable period;

(c) An electing partnership shall be treated as a corporation with respect to the requirements of section 77-2769 for payments of estimated tax. The require-

ment for payment of estimated tax under section 77-2769 shall not apply for tax years beginning prior to January 1, 2024. Payments of estimated tax made by an eligible partnership that does not make an election under this subsection shall be treated as income tax withholding on behalf of the partners;

(d) Except as provided in subdivision (e) of this subsection, the partners of an electing partnership must file a Nebraska return to report their pro rata or distributive share of the income of the electing partnership in accordance with the Nebraska Revenue Act of 1967, as applicable. In determining the sum of its pro rata or distributive share and computing the tax under this subsection, an electing partnership shall add back any amount of Nebraska tax imposed under the Nebraska Revenue Act of 1967 and deducted by the electing partnership for federal income tax purposes under section 164 of the Internal Revenue Code;

(e) A nonresident individual who is a partner of an electing partnership shall not be required to file a Nebraska tax return for a taxable year if, for such taxable year, the only source of income derived from or connected with sources within this state for such partner, or for the partner and the partner's spouse if a joint federal income tax return is filed, is from one or more electing partnerships or electing small business corporations as defined in subdivision (9)(a) of section 77-2734.01 for such taxable year and such nonresident individual partner's tax under the Nebraska Revenue Act of 1967 would be fully satisfied by the credit allowed to such partner under subdivision (g) of this subsection;

(f) If the amount calculated under subdivision (a) of this subsection results in a net operating loss, such net operating loss may not be carried forward to succeeding taxable years;

(g)(i) A refundable credit shall be available to the partners in an amount equal to their pro rata or distributive share of the Nebraska income tax paid by the electing partnership;

(ii) In the case of a partnership or small business corporation that is a partner of an electing partnership, the refundable credit under this subdivision (g) shall (A) be allowed to its partners or shareholders in accordance with the determination of income and distributive share of the Nebraska income tax paid by the electing partnership or (B) be applied against the partner's tax, interest, and penalty. Any excess credit deemed an overpayment may be refunded or applied to the subsequent tax year;

(iii) If a partnership making the election under this subsection is a partner of another electing partnership, net income shall be computed as provided in subsection (1) of this section. The upper tier electing partnership shall claim a credit for the tax paid by the lower tier electing partnership. The upper tier electing partnership shall distribute out the pro rata or distributive share of the credits to its partners for tax paid under this subsection by all tiers of electing partnerships. As used in this subdivision, the term lower tier electing partnership means an electing partnership in which some or all of the partners are an electing partnership. The term upper tier electing partnership means an electing partnership that is a partner of a lower tier electing partnership. An electing partnership may have two or more tiers; and

(h)(i) For tax years beginning or deemed to begin on or after January 1, 2018, but prior to January 1, 2023, the electing partnership must make the election under this subsection on or after January 1, 2023, but before December 31, 2025, in the form and manner prescribed by the Tax Commissioner for all years

for which the election under this subsection is made on behalf of the electing partnership. The Tax Commissioner shall establish the form and manner, which shall not include any changes to the past returns other than those that are directly related to the election under this subsection.

(ii) Notwithstanding any other provision of law, if an electing partnership files in the form and manner as specified in subdivision (h)(i) of this subsection, the deadline for filing a claim for credit or refund prescribed in section 77-2793 shall be extended for affected partners of the electing partnership until the timeframe specified in section 77-2793 or January 31, 2026, whichever is later. The resulting claim of refund for tax years beginning prior to January 1, 2023, shall be submitted in the form and manner as prescribed by the Tax Commissioner. Neither the electing partnership nor its partners shall incur any penalties for late filing nor owe interest on such amounts. The Tax Commissioner shall not be required to pay interest on any amounts owed to the partners resulting from such refund claims.

(iii) Notwithstanding the dates provided in subdivision (h)(i) of this subsection, the Tax Commissioner shall have one year from the date an electing partnership files in the form and manner as specified in subdivision (h)(i) of this subsection to review and make a written proposed deficiency determination in accordance with section 77-2786. Any notice of deficiency determination made as specified in this subdivision may be enforced at any time within six years from the date of the notice of deficiency determination.

(7) For purposes of this section:

(a) Electing partnership means, with respect to a taxable period, an eligible partnership that has made an election pursuant to subsection (6) of this section with respect to such taxable period; and

(b) Eligible partnership means any partnership as provided for in section 7701(a)(2) of the Internal Revenue Code that has a filing requirement under the Nebraska Revenue Act of 1967 other than a publicly traded partnership as defined in section 7704 of the Internal Revenue Code. An eligible partnership includes any entity, including a limited liability company, treated as a partnership for federal income tax purposes that otherwise meets the requirements of this subdivision.

(8) For purposes of this section, any partner that is a grantor trust of a nonresident shall be disregarded and this section shall apply as though the nonresident grantor was the partner.

Source: Laws 1967, c. 487, § 27, p. 1583; Laws 1973, LB 531, § 2; Laws 1985, LB 273, § 52; Laws 1991, LB 773, § 15; Laws 2005, LB 216, § 11; Laws 2008, LB915, § 2; Laws 2012, LB970, § 7; Laws 2023, LB754, § 11.

Effective date June 1, 2023.

77-2730 Individual; resident estate or trust; income derived from another state; credit.

(1) A resident individual and a resident estate or trust shall be allowed a credit against the income tax otherwise due for the amount of any income tax imposed on him or her for each taxable year commencing on or after January 1, 1983, by another state of the United States or a political subdivision thereof

or the District of Columbia on income derived from sources therein and which is also subject to income tax under sections 77-2714 to 77-27,123.

(2) The credit provided under sections 77-2714 to 77-27,135 shall not exceed the proportion of the income tax otherwise due under such sections that the amount of the taxpayer's adjusted gross income or total income derived from sources in the other taxing jurisdiction bears to federal adjusted gross income or total federal income.

(3) For purposes of subsection (1) of this section, a resident individual, estate, or trust shall be deemed to have paid a portion of the income tax imposed by another state, a political subdivision thereof, or the District of Columbia on the income of any partnership, trust, or estate when such resident individual, estate, or trust is a partner, or beneficiary and (a) the income taxed is included in the federal taxable income of the resident individual, estate, or trust and (b) the taxation of such partnership, trust, or estate by the other state is inconsistent with the taxation of such entity under the Internal Revenue Code, including any tax similar to the tax imposed under subsection (6) of section 77-2727 and subsection (8) of section 77-2734.01 for the taxable year imposed by another state of the United States or a political subdivision of such a state, or by the District of Columbia, with respect to the direct and indirect taxable income attributable to the resident individual, estate, or trust from an entity that is also subject to tax under sections 77-2714 to 77-2734.16. The amount of income tax deemed paid by the resident individual, estate, or trust shall be the same percentage of the total tax paid by the entity as the income included in federal taxable income of the resident is to the total taxable income of the entity as computed for the other state.

Source: Laws 1967, c. 487, § 30, p. 1584; Laws 1973, LB 526, § 2; Laws 1985, LB 273, § 53; Laws 1987, LB 6, § 2; Laws 1987, LB 773, § 14; Laws 1993, LB 121, § 505; Laws 1994, LB 884, § 90; Laws 2023, LB754, § 12.

Effective date June 1, 2023.

77-2734.01 Small business corporation shareholders; limited liability company members; determination of income; credit; Tax Commissioner; powers; return; when required; election to file return at entity level; how treated.

(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) Notwithstanding any provision of this section to the contrary:

(a) For tax years beginning or deemed to begin on or after January 1, 2018, a small business corporation may annually make an irrevocable election to pay the taxes, interest, or penalties levied by the Nebraska Revenue Act of 1967 at the entity level for the taxable period covered by such return. For tax years beginning on or after January 1, 2023, such election must be made on or before the due date for filing the applicable income tax return, including any extensions that have been granted;

(b) An electing small business corporation with respect to a taxable period shall pay an income tax equivalent to the highest individual income tax rate provided in section 77-2715.03 multiplied by the electing small business corporation's net income as apportioned or allocated to this state in accordance with the Nebraska Revenue Act of 1967, for such taxable period;

(c) An electing small business corporation shall be treated as a corporation with respect to the requirements of section 77-2769 for payments of estimated tax. The requirement for payment of estimated tax under section 77-2769 shall not apply for tax years beginning prior to January 1, 2024. Payments of estimated tax made by an eligible small business corporation that does not make an election under this subsection shall be treated as income tax withholding on behalf of the shareholders;

(d) Except as provided in subdivision (e) of this subsection, the shareholders of an electing small business corporation must file a Nebraska return to report their pro rata or distributive share of the income of the electing small business corporation in accordance with the Nebraska Revenue Act of 1967, as applicable. In determining the sum of its pro rata or distributive share and computing the tax under this subsection, an electing small business corporation shall add back any amount of Nebraska tax imposed under the Nebraska Revenue Act of 1967 and deducted by the electing small business corporation for federal income tax purposes under section 164 of the Internal Revenue Code;

(e) A nonresident individual who is a shareholder of an electing small business corporation shall not be required to file a Nebraska tax return for a taxable year if, for such taxable year, the only source of income derived from or connected with sources within this state for such shareholder, or for the shareholder and the shareholder's spouse if a joint federal income tax return is filed, is from one or more electing small business corporations or electing partnerships as defined in subdivision (7)(a) of section 77-2727 for such taxable year and such nonresident individual shareholder's tax under the Nebraska

Revenue Act of 1967 would be fully satisfied by the credit allowed to such shareholder under subdivision (g) of this subsection;

(f) If the amount calculated under subdivision (a) of this subsection results in a net operating loss, such net operating loss may not be carried forward to succeeding taxable years;

(g) A refundable credit shall be available to the shareholders in an amount equal to their pro rata or distributive share of the Nebraska income tax paid by the electing small business corporation; and

(h)(i) For tax years beginning or deemed to begin on or after January 1, 2018, but prior to January 1, 2023, the electing small business corporation must make the election under this subsection on or after January 1, 2023, but before December 31, 2025, in the form and manner prescribed by the Tax Commissioner for all years for which the election under this subsection is made on behalf of the electing small business corporation. The Tax Commissioner shall establish the form and manner, which shall not include any changes to the past returns other than those that are directly related to the election under this subsection.

(ii) Notwithstanding any other provision of law, if an electing small business corporation files in the form and manner as specified in subdivision (h)(i) of this subsection, the deadline for filing a claim for credit or refund prescribed in section 77-2793 shall be extended for affected shareholders of the electing small business corporation until the timeframe specified in section 77-2793 or January 31, 2026, whichever is later. The resulting claim of refund for tax years beginning prior to January 1, 2023, shall be submitted in the form and manner as prescribed by the Tax Commissioner. Neither the electing small business corporation nor its shareholders shall incur any penalties for late filing nor owe interest on such amounts. The Tax Commissioner shall not be required to pay interest on any amounts owed to the shareholders resulting from such refund claims.

(iii) Notwithstanding the dates provided in subdivision (h)(i) of this subsection, the Tax Commissioner shall have one year from the date an electing small business corporation files in the form and manner as specified in subdivision (h)(i) of this subsection to review and make a written proposed deficiency determination in accordance with section 77-2786. Any notice of deficiency determination made as specified in this subdivision may be enforced at any time within six years from the date of the notice of deficiency determination.

(9) For purposes of this section:

(a) Electing small business corporation means, with respect to a taxable period, an eligible small business corporation having an election in effect under subchapter S of the Internal Revenue Code that has made an election pursuant to subsection (8) of this section with respect to such taxable period; and

(b) Eligible small business corporation means an entity subject to taxation under subchapter S of the Internal Revenue Code and the regulations thereunder.

(10) 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; Laws 2023, LB754, § 13.
Effective date June 1, 2023.

Cross References

Nebraska Uniform Limited Liability Company Act, see section 21-101.

77-2734.02 Corporate taxpayer; income tax rate; how determined.

(1) Except as provided in subsection (2) of this section, a tax is hereby imposed on the taxable income of every corporate taxpayer that is doing business in this state:

(a) For taxable years beginning or deemed to begin before January 1, 2013, at a rate equal to one hundred fifty and eight-tenths percent of the primary rate imposed on individuals under section 77-2701.01 on the first one hundred thousand dollars of taxable income and at the rate of two hundred eleven percent of such rate on all taxable income in excess of one hundred thousand dollars. The resultant rates shall be rounded to the nearest one hundredth of one percent;

(b) For taxable years beginning or deemed to begin on or after January 1, 2013, and before January 1, 2022, at a rate equal to 5.58 percent on the first one hundred thousand dollars of taxable income and at the rate of 7.81 percent on all taxable income in excess of one hundred thousand dollars;

(c) For taxable years beginning or deemed to begin on or after January 1, 2022, and before January 1, 2023, at a rate equal to 5.58 percent on the first one hundred thousand dollars of taxable income and at the rate of 7.50 percent on all taxable income in excess of one hundred thousand dollars;

(d) For taxable years beginning or deemed to begin on or after January 1, 2023, and before January 1, 2024, at a rate equal to 5.58 percent on the first one hundred thousand dollars of taxable income and at the rate of 7.25 percent on all taxable income in excess of one hundred thousand dollars;

(e) For taxable years beginning or deemed to begin on or after January 1, 2024, and before January 1, 2025, at a rate equal to 5.58 percent on the first one hundred thousand dollars of taxable income and at the rate of 5.84 percent on all taxable income in excess of one hundred thousand dollars;

(f) For taxable years beginning or deemed to begin on or after January 1, 2025, and before January 1, 2026, at the rate of 5.20 percent on all taxable income;

(g) For taxable years beginning or deemed to begin on or after January 1, 2026, and before January 1, 2027, at the rate of 4.55 percent on all taxable income; and

(h) For taxable years beginning or deemed to begin on or after January 1, 2027, at the rate of 3.99 percent on all taxable income.

For corporate taxpayers with a fiscal year that does not coincide with the calendar year, the individual rate used for this subsection shall be the rate in effect on the first day, or the day deemed to be the first day, of the taxable year.

(2) An insurance company shall be subject to taxation at the lesser of the rate described in subsection (1) of this section or the rate of tax imposed by the state or country in which the insurance company is domiciled if the insurance company can establish to the satisfaction of the Tax Commissioner that it is domiciled in a state or country other than Nebraska that imposes on Nebraska domiciled insurance companies a retaliatory tax against the tax described in subsection (1) of this section.

(3) For a corporate taxpayer that is subject to tax in another state, its taxable income shall be the portion of the taxpayer's federal taxable income, as adjusted, that is determined to be connected with the taxpayer's operations in this state pursuant to sections 77-2734.05 to 77-2734.15.

(4) Each corporate taxpayer shall file only one income tax return for each taxable year.

Source: Laws 1984, LB 1124, § 5; Laws 1987, LB 773, § 19; Laws 1995, LB 300, § 2; Laws 2008, LB888, § 1; Laws 2012, LB970, § 9; Laws 2021, LB432, § 13; Laws 2022, LB873, § 3; Laws 2023, LB754, § 14.
Effective date June 1, 2023.

77-2734.03 Income tax; tax credits.

(1)(a) For taxable years commencing prior to January 1, 1997, any (i) insurer paying a tax on premiums and assessments pursuant to section 77-908 or 81-523, (ii) electric cooperative organized under the Joint Public Power Authority Act, or (iii) credit union shall be credited, in the computation of the tax due under the Nebraska Revenue Act of 1967, with the amount paid during the taxable year as taxes on such premiums and assessments and taxes in lieu of intangible tax.

(b) For taxable years commencing on or after January 1, 1997, any insurer paying a tax on premiums and assessments pursuant to section 77-908 or 81-523, any electric cooperative organized under the Joint Public Power Authority Act, or any credit union shall be credited, in the computation of the tax due under the Nebraska Revenue Act of 1967, with the amount paid during the taxable year as (i) taxes on such premiums and assessments included as Nebraska premiums and assessments under section 77-2734.05 and (ii) taxes in lieu of intangible tax.

(c) For taxable years commencing or deemed to commence prior to, on, or after January 1, 1998, any insurer paying a tax on premiums and assessments pursuant to section 77-908 or 81-523 shall be credited, in the computation of the tax due under the Nebraska Revenue Act of 1967, with the amount paid during the taxable year as assessments allowed as an offset against premium and related retaliatory tax liability pursuant to section 44-4233.

(2) There shall be allowed to corporate taxpayers a tax credit for contributions to community betterment programs as provided in the Community Development Assistance Act.

(3) There shall be allowed to corporate taxpayers a refundable income tax credit under the Beginning Farmer Tax Credit Act for all taxable years begin-

ning or deemed to begin on or after January 1, 2001, under the Internal Revenue Code of 1986, as amended.

(4) The changes made to this section by Laws 2004, LB 983, apply to motor fuels purchased during any tax year ending or deemed to end on or after January 1, 2005, under the Internal Revenue Code of 1986, as amended.

(5) There shall be allowed to corporate taxpayers refundable income tax credits under the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, and the Renewable Chemical Production Tax Credit Act.

(6) There shall be allowed to corporate taxpayers a nonrefundable income tax credit for investment in a biodiesel facility as provided in section 77-27,236.

(7) There shall be allowed to corporate taxpayers a nonrefundable income tax credit as provided in the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Child Care Tax Credit Act, the Affordable Housing Tax Credit Act, the Opportunity Scholarships Act, and sections 77-27,238, 77-27,240, and 77-27,241.

Source: Laws 1984, LB 1124, § 6; Laws 1985, LB 273, § 55; Laws 1986, LB 1114, § 19; Laws 1992, LB 719A, § 176; Laws 1992, LB 1063, § 184; Laws 1993, LB 5, § 4; Laws 1993, LB 815, § 25; Laws 1996, LB 898, § 6; Laws 1997, LB 55, § 4; Laws 1997, LB 61, § 1; Laws 1998, LB 1035, § 24; Laws 2000, LB 1223, § 2; Laws 2001, LB 433, § 6; Laws 2004, LB 983, § 68; Laws 2005, LB 312, § 14; Laws 2007, LB343, § 6; Laws 2007, LB367, § 23; Laws 2012, LB1128, § 24; Laws 2014, LB191, § 19; Laws 2016, LB774, § 9; Laws 2016, LB884, § 21; Laws 2016, LB889, § 12; Laws 2020, LB1107, § 132; Laws 2022, LB917, § 5; Laws 2022, LB1261, § 12; Laws 2023, LB727, § 72; Laws 2023, LB753, § 16; Laws 2023, LB754, § 15.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB727, section 72, with LB753, section 16, and LB754, section 15, to reflect all amendments.

Note: Changes made by LB727 became operative September 2, 2023. Changes made by LB753 became operative January 1, 2024. Changes made by LB754 became effective June 1, 2023.

Cross References

Affordable Housing Tax Credit Act, see section 77-2501.

Beginning Farmer Tax Credit Act, see section 77-5201.

Child Care Tax Credit Act, see section 77-7201.

Community Development Assistance Act, see section 13-201.

Joint Public Power Authority Act, see section 70-1401.

Nebraska Advantage Microenterprise Tax Credit Act, see section 77-5901.

Nebraska Advantage Research and Development Act, see section 77-5801.

Nebraska Biodiesel Tax Credit Act, see section 77-7009.

Nebraska Higher Blend Tax Credit Act, see section 77-7001.

Nebraska Job Creation and Mainstreet Revitalization Act, see section 77-2901.

Nebraska Property Tax Incentive Act, see section 77-6701.

New Markets Job Growth Investment Act, see section 77-1101.

Opportunity Scholarships Act, see section 77-7101.

Renewable Chemical Production Tax Credit Act, see section 77-6601.

School Readiness Tax Credit Act, see section 77-3601.

77-2775 Federal income tax return; modified or amended; change in tax liability owed to this state; taxpayer; duties; partnership; election; effect.

(1) If the amount of a taxpayer's federal adjusted gross income, taxable income, or tax liability reported on his or her federal income tax return for any

taxable year is changed or corrected by the Internal Revenue Service or other competent authority or as the result of a renegotiation of a contract or subcontract with the United States, the taxpayer shall report such change or correction in federal adjusted gross income, taxable income, or tax liability within sixty days after the final determination of such change, correction, or renegotiation.

(2) Whenever the amount of a taxpayer's income which is taxable in any state for any taxable year or any tax credits allowable in such state are changed or corrected in a way material to the tax liability owed to this state by the agency having authority to examine returns filed with such state or any other competent authority or whenever an amended return is filed by any taxpayer with a change or correction material to the tax liability owed to this state with another state, such change or correction shall be reported to the Tax Commissioner within sixty days after the final change or correction or filing of the amended return. The Tax Commissioner shall by rule and regulation provide the nature of any change or correction which must be reported.

(3) The taxpayer shall report all changes or corrections required to be reported under this section by filing an amended income tax return and shall give such information as the Tax Commissioner may require. The taxpayer shall concede the accuracy of any change or correction or state why it is erroneous.

(4) Any taxpayer filing an amended federal income tax return shall also file within sixty days thereafter an amended income tax return under the Nebraska Revenue Act of 1967 and shall give such information as the Tax Commissioner may require. For any amended federal income tax return requesting a credit or refund, the amended Nebraska income tax return shall be filed within sixty days after the taxpayer has received proof of federal acceptance of the credit or refund or within the time for filing an amended Nebraska income tax return that would otherwise be applicable notwithstanding the amended federal income tax return, whichever is later.

(5) Notwithstanding the foregoing, any partnership that is required to file an amended return pursuant to this section shall be allowed, at the partnership's election, to file an amended Nebraska income tax return and to pay all Nebraska income tax, penalties, or interest associated with such amended return, determined after taking into consideration offsetting positive and negative adjustments of partnership items, at the top individual tax rate set forth in section 77-2715.03 as if the partnership were an individual. For a partnership making an election pursuant to this subsection and paying the tax, penalties, or interest arising from the amended return, (a) the partners of such electing partnership shall not be required to file amended Nebraska income tax returns for the year of the election and shall not be required to pay Nebraska income tax, penalties, or interest arising as a result of such amended return and (b) the basis, and other tax items in the hands of the partner, arising from the partner's interest in the partnership shall be determined as if the election under this subsection had not been made and shall be determined in a similar manner as set forth for federal income tax purposes.

Source: Laws 1967, c. 487, § 75, p. 1603; Laws 1987, LB 773, § 23; Laws 1993, LB 345, § 62; Laws 1997, LB 62, § 3; Laws 2005, LB 216, § 15; Laws 2008, LB914, § 9; Laws 2023, LB754, § 16.
Effective date June 1, 2023.

(d) GENERAL PROVISIONS

77-27,132 Revenue Distribution Fund; created; use; collections under act; disposition.

(1) There is hereby created a fund to be designated the Revenue Distribution Fund which shall be set apart and maintained by the Tax Commissioner. Revenue not required to be credited to the General Fund or any other specified fund may be credited to the Revenue Distribution Fund. Credits and refunds of such revenue shall be paid from the Revenue Distribution Fund. The balance of the amount credited, after credits and refunds, shall be allocated as provided by the statutes creating such revenue.

(2) The Tax Commissioner shall pay to a depository bank designated by the State Treasurer all amounts collected under the Nebraska Revenue Act of 1967. The Tax Commissioner shall present to the State Treasurer bank receipts showing amounts so deposited in the bank, and of the amounts so deposited the State Treasurer shall:

(a) For transactions occurring on or after October 1, 2014, and before October 1, 2027, credit to the Game and Parks Commission Capital Maintenance Fund all of the proceeds of the sales and use taxes imposed pursuant to section 77-2703 on the sale or lease of motorboats as defined in section 37-1204, personal watercraft as defined in section 37-1204.01, all-terrain vehicles as defined in section 60-103, and utility-type vehicles as defined in section 60-135.01;

(b) Credit to the Highway Trust Fund all of the proceeds of the sales and use taxes derived from the sale or lease for periods of more than thirty-one days of motor vehicles, trailers, and semitrailers, except that the proceeds equal to any sales tax rate provided for in section 77-2701.02 that is in excess of five percent derived from the sale or lease for periods of more than thirty-one days of motor vehicles, trailers, and semitrailers shall be credited to the Highway Allocation Fund;

(c) For transactions occurring on or after July 1, 2013, and before July 1, 2042, of the proceeds of the sales and use taxes derived from transactions other than those listed in subdivisions (2)(a), (b), and (e) of this section from a sales tax rate of one-quarter of one percent, credit monthly eighty-five percent to the Highway Trust Fund and fifteen percent to the Highway Allocation Fund;

(d) Of the proceeds of the sales and use taxes derived from transactions other than those listed in subdivisions (2)(a), (b), and (e) of this section, credit to the Property Tax Credit Cash Fund the amount certified under section 77-27,237, if any such certification is made; and

(e) For transactions occurring on or after July 1, 2023, credit to the Department of Transportation Aeronautics Capital Improvement Fund all of the proceeds of the sales and use taxes imposed pursuant to section 77-2703 on the sale or lease of aircraft as defined in section 3-101.

The balance of all amounts collected under the Nebraska Revenue Act of 1967 shall be credited to the General Fund.

Source: Laws 1967, c. 487, § 132, p. 1636; Laws 1969, c. 695, § 1, p. 2692; Laws 1969, c. 313, § 2, p. 1130; Laws 1971, LB 53, § 9; Laws 1972, LB 343, § 23; Laws 1975, LB 233, § 2; Laws 1976, LB 868, § 1; Laws 1984, LB 466, § 5; Laws 1986, LB 599, § 23; Laws 1986, LB 539, § 3; Laws 1987, LB 730, § 30; Laws 1989,

LB 258, § 11; Laws 2003, LB 759, § 22; Laws 2006, LB 904, § 4; Laws 2007, LB305, § 1; Laws 2011, LB84, § 6; Laws 2014, LB814, § 11; Laws 2015, LB200, § 2; Laws 2017, LB331, § 42; Laws 2021, LB595, § 10; Laws 2023, LB727, § 73.
Operative date June 7, 2023.

(m) NEBRASKA ADVANTAGE RURAL DEVELOPMENT ACT

77-27,187.02 Application; deadline; contents; fee; written agreement; contents.

(1) To earn the incentives set forth in the Nebraska Advantage Rural Development Act, the taxpayer shall file an application for an agreement with the Tax Commissioner. There shall be no new applications for incentives filed under this section after December 31, 2027.

(2) The application shall contain:

(a) A written statement describing the full expected employment or type of livestock production and the investment amount for a qualified business, as described in section 77-27,189, in this state;

(b) Sufficient documents, plans, and specifications as required by the Tax Commissioner to support the plan and to define a project; and

(c) An application fee of (i) one hundred dollars for an investment amount of less than twenty-five thousand dollars, (ii) two hundred fifty dollars for an investment amount of at least twenty-five thousand dollars but less than fifty thousand dollars, and (iii) five hundred dollars for an investment amount of fifty thousand dollars or more. The fee shall be remitted to the State Treasurer for credit to the Nebraska Incentives Fund. The application and all supporting information shall be confidential except for the name of the taxpayer, the location of the project, and the amounts of increased employment or investment.

(3)(a) The Tax Commissioner shall approve the application and authorize the total amount of credits expected to be earned as a result of the project if he or she is satisfied that the plan in the application defines a project that (i) meets the requirements established in section 77-27,188 and such requirements will be reached within the required time period and (ii) for projects other than livestock modernization or expansion projects, is located in an eligible county, city, or village.

(b) For applications filed in calendar year 2016 and each year thereafter, the Tax Commissioner shall not approve further applications from applicants described in subsection (1) of section 77-27,188 once the expected credits from approved projects in this category total: For calendar years 2016 through 2022, one million dollars; and for calendar year 2023 and each calendar year thereafter, two million dollars. For applications filed in calendar year 2016 and each year thereafter, the Tax Commissioner shall not approve further applications from applicants described in subsection (2) of section 77-27,188 once the expected credits from approved projects in this category total: For calendar year 2016, five hundred thousand dollars; for calendar years 2017 and 2018, seven hundred fifty thousand dollars; for calendar years 2019, 2020, and 2021, one million dollars; and for calendar year 2022 and each calendar year thereafter, ten million dollars. Four hundred dollars of the application fee shall

be refunded to the applicant if the application is not approved because the expected credits from approved projects exceed such amounts.

(c) Applications for benefits shall be considered separately and in the order in which they are received for the categories represented by subsections (1) and (2) of section 77-27,188.

(d) Applications shall be filed by November 1 and shall be complete by December 1 of each calendar year. Any application that is filed after November 1 or that is not complete on December 1 shall be considered to be filed during the following calendar year.

(4) After approval, the taxpayer and the Tax Commissioner shall enter into a written agreement. The taxpayer shall agree to complete the project, and the Tax Commissioner, on behalf of the State of Nebraska, shall designate the approved plans of the taxpayer as a project and, in consideration of the taxpayer's agreement, agree to allow the taxpayer to use the incentives contained in the Nebraska Advantage Rural Development Act up to the total amount that were authorized by the Tax Commissioner at the time of approval. The application, and all supporting documentation, to the extent approved, shall be considered a part of the agreement. The agreement shall state:

(a) The levels of employment and investment required by the act for the project;

(b) The time period under the act in which the required level must be met;

(c) The documentation the taxpayer will need to supply when claiming an incentive under the act;

(d) The date the application was filed; and

(e) The maximum amount of credits authorized.

Source: Laws 2003, LB 608, § 3; Laws 2005, LB 312, § 18; Laws 2006, LB 990, § 3; Laws 2007, LB223, § 17; Laws 2008, LB895, § 3; Laws 2008, LB914, § 17; Laws 2009, LB164, § 2; Laws 2011, LB389, § 14; Laws 2015, LB175, § 7; Laws 2015, LB538, § 10; Laws 2016, LB1022, § 6; Laws 2022, LB1261, § 13; Laws 2023, LB727, § 74.

Operative date September 2, 2023.

77-27,188 Tax credit; allowed; when; amount; repayment.

(1) A refundable credit against the taxes imposed by the Nebraska Revenue Act of 1967 shall be allowed to any taxpayer who has an approved application pursuant to the Nebraska Advantage Rural Development Act, who is engaged in a qualified business as described in section 77-27,189, and who after January 1, 2006:

(a)(i) Increases employment by two new equivalent employees and makes an increased investment of at least one hundred twenty-five thousand dollars prior to the end of the first taxable year after the year in which the application was submitted in (A) any county in this state with a population of fewer than fifteen thousand inhabitants, according to the most recent federal decennial census, (B) any village in this state, or (C) any area within the corporate limits of a city of the metropolitan class consisting of one or more contiguous census tracts, as determined by the most recent federal decennial census, which contain a percentage of persons below the poverty line of greater than thirty percent, and all census tracts contiguous to such tract or tracts; or

(ii) Increases employment by five new equivalent employees and makes an increased investment of at least two hundred fifty thousand dollars prior to the end of the first taxable year after the year in which the application was submitted in any county in this state with a population of less than twenty-five thousand inhabitants, according to the most recent federal decennial census, or any city of the second class; and

(b) Pays a minimum qualifying wage of eight dollars and twenty-five cents per hour to the new equivalent employees for which tax credits are sought under the Nebraska Advantage Rural Development Act. The Department of Revenue shall adjust the minimum qualifying wages required for applications filed after January 1, 2004, and each January 1 thereafter, as follows: The current rural Nebraska average weekly wage shall be divided by the rural Nebraska average weekly wage for 2003; and the result shall be multiplied by the eight dollars and twenty-five cents minimum qualifying wage for 2003 and rounded to the nearest one cent. The amount of increase or decrease in the minimum qualifying wages for any year shall be the cumulative change in the rural Nebraska average weekly wage since 2003. For purposes of this subsection, rural Nebraska average weekly wage means the most recent average weekly wage paid by all employers in all counties with a population of less than twenty-five thousand inhabitants as reported by October 1 by the Department of Labor.

For purposes of this section, a teleworker working in Nebraska from his or her residence for a taxpayer shall be considered an employee of the taxpayer, and property of the taxpayer provided to the teleworker working in Nebraska from his or her residence shall be considered an investment. Teleworker includes an individual working on a per-item basis and an independent contractor working for the taxpayer so long as the taxpayer withholds Nebraska income tax from wages or other payments made to such teleworker. For purposes of calculating the number of new equivalent employees when the teleworkers are paid on a per-item basis or are independent contractors, the total wages or payments made to all such new employees during the year shall be divided by the qualifying wage as determined in subdivision (b) of this subsection, with the result divided by two thousand eighty hours.

(2) A refundable credit against the taxes imposed by the Nebraska Revenue Act of 1967 shall be allowed to any taxpayer who (a) has an approved application pursuant to the Nebraska Advantage Rural Development Act, (b) is engaged in livestock production, and (c) invests at least fifty thousand dollars for livestock modernization or expansion for applications filed before January 1, 2024, or at least ten thousand dollars for livestock modernization or expansion for applications filed on or after January 1, 2024.

(3) The amount of the credit allowed under subsection (1) of this section shall be three thousand dollars for each new equivalent employee and two thousand seven hundred fifty dollars for each fifty thousand dollars of increased investment. For applications filed before January 1, 2016, the amount of the credit allowed under subsection (2) of this section shall be ten percent of the investment, not to exceed a credit of thirty thousand dollars. For applications filed on or after January 1, 2016, and before April 20, 2022, the amount of the credit allowed under subsection (2) of this section shall be ten percent of the investment, not to exceed a credit of one hundred fifty thousand dollars per application. For applications filed on or after April 20, 2022, the amount of the credit allowed under subsection (2) of this section shall be ten percent of the

investment, not to exceed a credit of five hundred thousand dollars per application. For each application, a taxpayer engaged in livestock production may qualify for a credit under either subsection (1) or (2) of this section, but cannot qualify for more than one credit per application.

(4) An employee of a qualified employee leasing company shall be considered to be an employee of the client-lessee for purposes of this section if the employee performs services for the client-lessee. A qualified employee leasing company shall provide the Department of Revenue access to the records of employees leased to the client-lessee.

(5) The credit shall not exceed the amounts set out in the application and approved by the Tax Commissioner.

(6)(a) If a taxpayer who receives tax credits creates fewer jobs or less investment than required in the project agreement, the taxpayer shall repay the tax credits as provided in this subsection.

(b) If less than seventy-five percent of the required jobs in the project agreement are created, one hundred percent of the job creation tax credits shall be repaid. If seventy-five percent or more of the required jobs in the project agreement are created, no repayment of the job creation tax credits is necessary.

(c) If less than seventy-five percent of the required investment in the project agreement is created, one hundred percent of the investment tax credits shall be repaid. If seventy-five percent or more of the required investment in the project agreement is created, no repayment of the investment tax credits is necessary.

(7) For taxpayers who submitted applications for benefits under the Nebraska Advantage Rural Development Act before January 1, 2006, subsection (1) of this section, as such subsection existed immediately prior to such date, shall continue to apply to such taxpayers. The changes made by Laws 2005, LB 312, shall not preclude a taxpayer from receiving the tax incentives earned prior to January 1, 2006.

Source: Laws 1986, LB 1124, § 2; Laws 1987, LB 270, § 2; Laws 1989, LB 335, § 1; Laws 1993, LB 725, § 16; Laws 1995, LB 134, § 6; Laws 1997, LB 886, § 3; Laws 1999, LB 539, § 2; Laws 2001, LB 169, § 2; Laws 2003, LB 608, § 4; Laws 2005, LB 312, § 19; Laws 2006, LB 990, § 4; Laws 2007, LB223, § 18; Laws 2008, LB895, § 4; Laws 2015, LB175, § 8; Laws 2022, LB1261, § 14; Laws 2023, LB727, § 75.

Operative date September 2, 2023.

Cross References

Ethanol facility eligible for tax credit, requirements, see section 66-1349.
Nebraska Revenue Act of 1967, see section 77-2701.

(q) COUNTY LICENSE OR OCCUPATION TAX ON ADMISSIONS

77-27,223 County; license or occupation tax; authorized; election.

A county may raise revenue by levying and collecting a license or occupation tax on any person, partnership, limited liability company, corporation, or business engaged in the sale of admissions to recreational, cultural, entertainment, or concert events that are subject to sales tax under sections 77-2701.04

to 77-2713 that occur outside any incorporated municipality, but within the boundary limits of the county. The tax shall be uniform in respect to the class upon which it is imposed. The tax shall be based upon a certain percentage of gross receipts from sales in the county of the person, partnership, limited liability company, corporation, or business, and may include sales of other goods and services at such locations and events, not to exceed one and one-half percent. A county may not impose the tax on sales that are within an incorporated city or village. No county shall levy and collect a license or occupation tax under this section unless approved by a majority of those voting on the question at a special, primary, or general election.

Source: Laws 2002, LB 259, § 1; Laws 2003, LB 282, § 83; Laws 2021, LB26, § 7; Laws 2021, LB595, § 11; Laws 2022, LB984, § 10; Laws 2023, LB727, § 76.
Operative date June 7, 2023.

(y) FOOD BANK, FOOD PANTRY, OR FOOD RESCUE DONATION CREDIT

77-27,241 Food bank, food pantry, or food rescue donation; credit; eligibility; application; tax credit certification; use.

(1) For purposes of this section:

(a) Agricultural producer means an individual or entity whose income is primarily attributable to crop or livestock production in the State of Nebraska;

(b) Department means the Department of Revenue;

(c) Food bank means an organization in this state that:

(i) Is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

(ii) Distributes food in ten or more counties in Nebraska and qualifies for the Emergency Food Assistance Program administered by the United States Department of Agriculture;

(d) Food pantry means an organization in this state that:

(i) Is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

(ii) Distributes emergency food supplies to low-income individuals in this state who would otherwise not have access to such food supplies;

(e) Food rescue means an organization in this state that:

(i) Is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

(ii) Accepts donations of food and delivers such food to food banks or food pantries so that such food may be distributed to low-income individuals in this state;

(f) Grocery store retailer means a retailer located in this state that is primarily engaged in business activities classified as code 445110 under the North American Industry Classification System;

(g) Qualifying agricultural food donation means a donation made by an agricultural producer to a food bank, food pantry, or food rescue of fresh or frozen fruits, vegetables, eggs, dairy products, or meat products grown or produced in the State of Nebraska which meets all applicable quality and labeling standards, along with any other applicable requirements of the food

bank, food pantry, or food rescue to which the qualifying agricultural food donation is made; and

(h) Restaurant means a business located in this state that is primarily engaged in business activities classified as code 722511, 722513, 722514, or 722515 under the North American Industry Classification System.

(2) For taxable years beginning or deemed to begin on or after January 1, 2024, under the Internal Revenue Code of 1986, as amended, a credit against the income tax imposed by the Nebraska Revenue Act of 1967 shall be allowed to:

(a) Any grocery store retailer or restaurant that donates food to a food bank, food pantry, or food rescue during the taxable year; and

(b) Any agricultural producer that makes a qualifying agricultural food donation to a food bank, food pantry, or food rescue during the taxable year.

(3) Subject to subsection (7) of this section, the credit provided in this section shall be a nonrefundable credit in an amount equal to fifty percent of the value of the food donations or qualifying agricultural food donations made during the taxable year, not to exceed two thousand five hundred dollars. Any amount of the credit that the taxpayer is prohibited from claiming in a taxable year may be carried forward to any of the three subsequent taxable years.

(4) For purposes of this section, food donated by a grocery store retailer or restaurant shall be valued at its wholesale value. A qualifying agricultural food donation shall be valued at the prevailing market value of the product at the time of donation, plus the direct cost incurred by the agricultural producer for processing the product.

(5) To receive a credit under this section, a taxpayer shall submit an application to the department in a form and manner prescribed by the department. The application shall include the amount of food donated during the taxable year and any other information required by the department.

(6) If the department determines that an application is complete and that the taxpayer qualifies for credits, the department shall approve the application within the limits set forth in this section and shall certify the amount of credits approved to the taxpayer.

(7) The department may approve zero dollars of credits each year. If the amount of credits requested by qualified taxpayers in any year exceeds such limit, the department shall allocate credits proportionally based on the amounts requested so that the limit is not exceeded.

(8) A taxpayer shall claim the credit by attaching the tax credit certification received from the department under subsection (6) of this section to the taxpayer's tax return.

(9) Any amount relating to such food donations or qualifying agricultural food donations that was subtracted from the taxpayer's federal adjusted gross income or federal taxable income must be added back in the determination of Nebraska adjusted gross income or taxable income before the credit provided in this section may be claimed.

(10) No credit granted under this section shall be transferred, sold, or assigned. No taxpayer shall be eligible to receive a credit under this section if such taxpayer employs persons who are not authorized to work in the United States under federal law. No taxpayer shall be able to claim more than one credit under this section for a single donation.

(11) A food bank, food pantry, or food rescue may accept or reject any food donated under this section for any reason. Any food that is rejected shall not qualify for a credit under this section.

(12) The department may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2023, LB727, § 77.

Operative date September 2, 2023.

ARTICLE 29

NEBRASKA JOB CREATION AND MAINSTREET REVITALIZATION ACT

Section

77-2902. Terms, defined.

77-2903. Local preservation ordinance or resolution; approval.

77-2904. Credit; amount; claim; approval; procedure.

77-2905. Application for credits; form; contents; officer; review; allocation of credits; notice of determination; denial; appeal; limit on credits; holder of allocation; duties.

77-2910. Rules and regulations; Nebraska State Historical Society; Department of Revenue; joint report; contents.

77-2912. Application deadline; allocation, issuance, or use of credits deadline.

77-2902 Terms, defined.

For purposes of the Nebraska Job Creation and Mainstreet Revitalization Act:

(1) Department means the Department of Revenue;

(2) Eligible expenditure means any cost incurred for the improvement of historically significant real property located in the State of Nebraska, including, but not limited to, qualified rehabilitation expenditures as defined in section 47(c)(2) of the Internal Revenue Code of 1986, as amended, and the related regulations thereunder, if such improvement is in conformance with the standards;

(3) Historically significant real property means a building or an at-grade or aboveground structure used for any purpose, except for a single-family detached residence, which, at the time of final approval of the work by the officer pursuant to section 77-2906, is:

(a) Individually listed in the National Register of Historic Places;

(b)(i) Located within a district listed in the National Register of Historic Places; and

(ii) Determined by the officer as being historically significant to such district;

(c)(i) Individually designated pursuant to a landmark ordinance or resolution enacted by a political subdivision of the state, which ordinance or resolution has been approved by the officer; and

(ii) Determined by the officer as being historically significant; or

(d)(i) Located within a district designated pursuant to a preservation ordinance or resolution enacted by a county, city, or village of the state or political body comprised thereof providing for the rehabilitation, preservation, or restoration of historically significant real property, which ordinance or resolution has been approved by the officer; and

(ii) Determined by the officer as contributing to the historical significance or economic viability of such district;

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(4) Improvement means a rehabilitation, preservation, or restoration project that contributes to the basis, functionality, or value of the historically significant real property and has a total cost which equals or exceeds five thousand dollars;

(5) Officer means the State Historic Preservation Officer;

(6) Person means any natural person, political subdivision, limited liability company, partnership, private domestic or private foreign corporation, or domestic or foreign nonprofit corporation certified pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

(7) Placed in service means that either (a) a temporary or final certificate of occupancy has been issued for the improvement or (b) the improvement is sufficiently complete to allow for the intended use of the improvement; and

(8) Standards means (a) the Secretary of the Interior's Standards for the Treatment of Historic Properties as promulgated by the United States Department of the Interior or (b) specific standards for the rehabilitation, preservation, and restoration of historically significant real property contained in a duly adopted local preservation ordinance or resolution that has been approved by the officer pursuant to section 77-2903.

Source: Laws 2014, LB191, § 2; Laws 2023, LB727, § 78.
Operative date September 2, 2023.

77-2903 Local preservation ordinance or resolution; approval.

For purposes of establishing standards under subdivision (8)(b) of section 77-2902, the officer shall approve a duly adopted local preservation ordinance or resolution if such ordinance or resolution meets the following requirements:

(1) The ordinance or resolution provides for specific standards and requirements regarding building exteriors that reflect the heritage, values, and character of the political subdivision adopting such ordinance or resolution; and

(2) The ordinance or resolution requires that any building to be rehabilitated, preserved, or restored shall have been originally constructed at least fifty years prior to the proposed rehabilitation, preservation, or restoration and the facade of such building shall not have undergone material structural alteration since its original construction, unless the rehabilitation, preservation, or restoration to be performed proposes to restore the facade to substantially its original condition.

Source: Laws 2014, LB191, § 3; Laws 2023, LB727, § 79.
Operative date September 2, 2023.

77-2904 Credit; amount; claim; approval; procedure.

(1) Any person incurring eligible expenditures may receive a nonrefundable credit against any income tax imposed by the Nebraska Revenue Act of 1967 or any tax imposed pursuant to sections 44-101 to 44-165, 77-907 to 77-918, or 77-3801 to 77-3807 for the year the historically significant real property is placed in service.

(2) For historically significant real property located in a county that includes a city of the metropolitan class or a city of the primary class, the credit shall be equal to twenty-five percent of eligible expenditures. For historically significant real property located in any other county, the credit shall be equal to thirty

percent of eligible expenditures. In all cases, the maximum credit allocated to any one project shall be two million dollars.

(3) Any taxpayer that claims a tax credit shall not be required to pay any additional retaliatory tax under section 44-150 as a result of claiming such tax credit. Any tax credit claimed under this section shall be considered a payment of tax for purposes of subsection (1) of section 77-2734.03.

(4) To claim the credit authorized under this section, a person must first apply and receive an allocation of credits and application approval under section 77-2905 and then request and receive final approval under section 77-2906.

(5) Interest shall not be allowed on any refund paid under the Nebraska Job Creation and Mainstreet Revitalization Act.

Source: Laws 2014, LB191, § 4; Laws 2015, LB261, § 12; Laws 2016, LB774, § 11; Laws 2023, LB727, § 80.
Operative date September 2, 2023.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-2905 Application for credits; form; contents; officer; review; allocation of credits; notice of determination; denial; appeal; limit on credits; holder of allocation; duties.

(1) Prior to commencing work on the historically significant real property, a person shall file an application for credits under the Nebraska Job Creation and Mainstreet Revitalization Act containing all required information with the officer on a form prescribed by the officer and shall include an application fee established by the officer pursuant to section 77-2907. The application shall include plans and specifications, an estimate of the cost of the project prepared by a licensed architect, licensed engineer, or licensed contractor, and a request for a specific amount of credits based on such estimate. The officer shall review the application and, within twenty-one days after receiving the application, shall determine whether the information contained therein is complete. The officer shall notify the applicant in writing of the determination within five business days after making the determination. If the officer fails to provide such notification as required, the application shall be deemed complete as of the twenty-first day after the application is received by the officer. If the officer determines the application is complete or if the application is deemed complete pursuant to this section, the officer shall reserve for the benefit of the applicant an allocation of credits in the amount specified in the application and determined by the officer to be reasonable and shall notify the applicant in writing of the amount of the allocation. The allocation does not entitle the applicant to an issuance of credits until the applicant complies with all other requirements of the Nebraska Job Creation and Mainstreet Revitalization Act for the issuance of credits. The date the officer determines the application is complete or the date the application is deemed complete pursuant to this section shall constitute the applicant's priority date for purposes of allocating credits under this section. For complete applications receiving an allocation under this section, the officer shall determine whether the application conforms to the standards, and, if so, the officer shall approve such application or approve such application with conditions. If the application does not conform to the standards, the officer shall deny such application. The officer shall promptly provide the person filing

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the application and the department with written notice of the officer's determination. If the officer does not provide a written notice of his or her determination within thirty days after the date the application is determined or deemed to be complete pursuant to this section, the application shall be deemed approved. The officer shall notify the department of any applications that are deemed approved pursuant to this section. If the officer denies the application, the credits allocated to the applicant under this subsection shall be added to the annual amount available for allocation under subsection (2) of this section. Any denial of an application by the officer pursuant to this section may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(2) For calendar years beginning before January 1, 2024, the total amount of credits that may be allocated by the officer under this section in any calendar year shall be limited to fifteen million dollars, of which four million dollars shall be reserved for applications seeking an allocation of credits of less than one hundred thousand dollars. For calendar years beginning on or after January 1, 2024, the total amount of credits that may be allocated by the officer under this section in any calendar year shall be limited to two million dollars. If the amount of credits allocated in any calendar year is less than the maximum amount of credits available under this section for that year, the unused amount shall be carried forward to subsequent years and shall be available for allocation in subsequent years until fully utilized, except as otherwise provided in section 77-2912. If the amount of credits reserved for applications seeking an allocation of credits of less than one hundred thousand dollars is not allocated by April 1 of any calendar year, such unallocated credits for the calendar year shall be available for any application seeking an allocation of credits based upon the applicant's priority date as determined by the officer. The officer shall allocate credits based on priority date, from earliest to latest. If the officer determines that the complete applications for credits in any calendar year exceed the maximum amount of credits available under this section for that year, only those applications with a priority date on or before the date on which the officer makes that determination may receive an allocation in that year, and the officer shall not make additional allocations until sufficient credits are available. If the officer suspends allocations of credits pursuant to this section, applications with priority dates on or before the date of such suspension shall retain their priority dates. Once additional credits are available for allocation, the officer shall once again allocate credits based on priority date, from earliest to latest, even if the priority dates are from a prior calendar year.

(3) The holder of an allocation of credits whose application was approved under this section shall start substantial work pursuant to the approved application within twenty-four months after receiving notice of approval of the application or, if no notice of approval is sent by the officer, within twenty-four months after the application is deemed approved pursuant to this section. Failure to comply with this subsection shall result in forfeiture of the allocation of credits received under this section. Any such forfeited allocation shall be added to the aggregate amount of credits available for allocation for the year in which the forfeiture occurred.

(4) Notwithstanding subsection (1) of this section, the person applying for the credit under this section may, at its own risk, incur eligible expenditures up to six months prior to the submission of the application required under subsection (1) of this section if such eligible expenditures are limited to architectural,

engineering, accounting, and legal fees and any costs generally related to the protection of the historically significant real property from deterioration.

Source: Laws 2014, LB191, § 5; Laws 2016, LB774, § 12; Laws 2023, LB727, § 81.

Operative date September 2, 2023.

Cross References

Administrative Procedure Act, see section 84-920.

77-2910 Rules and regulations; Nebraska State Historical Society; Department of Revenue; joint report; contents.

(1) The Nebraska State Historical Society and the department may each adopt and promulgate rules and regulations to carry out the Nebraska Job Creation and Mainstreet Revitalization Act.

(2) The Nebraska State Historical Society and the department shall annually issue a joint report electronically to the Revenue Committee of the Legislature no later than December 31 of each year. The report shall include, but not be limited to, (a) the total number of applications submitted under the Nebraska Job Creation and Mainstreet Revitalization Act, (b) the number of applications approved or conditionally approved, (c) the number of applications outstanding, if any, (d) the number of applications denied and the basis for denial, (e) the total amount of eligible expenditures approved, (f) the total amount of credits issued, claimed, and still available for use, (g) the total amount of fees collected, (h) the name and address location of each historically significant real property identified in each application, whether approved or denied, (i) the total amount of credits transferred, sold, and assigned and a certification of the ownership of the credits, (j) the total amount of credits claimed against each tax type by category, and (k) the total amount of credits recaptured, if any. No information shall be provided in the report that is protected by state or federal confidentiality laws.

Source: Laws 2014, LB191, § 10; Laws 2023, LB727, § 82.

Operative date September 2, 2023.

77-2912 Application deadline; allocation, issuance, or use of credits deadline.

There shall be no new applications filed under the Nebraska Job Creation and Mainstreet Revitalization Act after December 31, 2030. All applications and all credits pending or approved before such date shall continue in full force and effect, except that no credits shall be allocated under section 77-2905, issued under section 77-2906, or used on any tax return or similar filing after December 31, 2035.

Source: Laws 2014, LB191, § 12; Laws 2015, LB538, § 11; Laws 2016, LB1022, § 7; Laws 2023, LB727, § 83.

Operative date September 2, 2023.

ARTICLE 34

POLITICAL SUBDIVISIONS, BUDGET LIMITATIONS

(d) **LIMITATION ON PROPERTY TAXES**

Section
77-3442. Property tax levies; maximum levy; exceptions.

(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 through fiscal year 2023-24, 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. For fiscal year 2024-25 and each fiscal year thereafter, community college areas may levy the levies provided in subdivisions (2)(a) and (b) of section 85-1517, in accordance with the provisions of such subdivisions. A community college area may exceed the levy provided in subdivision (2)(a) of section 85-1517 by the amount necessary to generate sufficient revenue as described in section 85-1543 or 85-2238. 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 activi-

ties 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, (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, and (e) to pay for cancer benefits provided on or after January 1, 2022, pursuant to the Firefighter Cancer Benefits Act 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; Laws 2021, LB432, § 14; Laws 2023, LB243, § 12.
Operative date September 2, 2023.

Cross References

Firefighter Cancer Benefits Act, see section 35-1002.

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.

ARTICLE 35

HOMESTEAD EXEMPTION

Section
77-3506. Certain veterans; exemption; certain surviving spouses; application.

Section

77-3512. Homestead; exemption; application; when filed; failure to file; effect.

77-3513. Homestead; exemption; notice; contents.

77-3522. Violations; penalty; disallowance of claim; when; revocation of exemption; procedure; appeal.

77-3506 Certain veterans; exemption; certain surviving spouses; 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 permanent disability, and who is not eligible for total exemption under sections 77-3526 to 77-3528;

(b) An unremarried surviving spouse of a veteran described in subdivision (2)(a) of this section or a surviving spouse of such a veteran who remarries after attaining the age of fifty-seven years;

(c) 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 temporary disability, and who is not eligible for total exemption under sections 77-3526 to 77-3528, an unremarried spouse of such a veteran, or a surviving spouse of such a veteran who remarries after attaining the age of fifty-seven years;

(d) 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;

(e) 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

(f) 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 subdivision (2)(a) of this section shall be required in every subsequent year evenly divisible by five and shall include certification of the status described in subdivision (2)(a) of this section from the United States Department of Veterans Affairs. Application for exemption under subdivision (2)(b), (c), (d), (e), or (f) of this section shall be required annually and shall include certification of the status described in subdivision (2)(b), (c), (d), (e), or (f) of this section from the United States Department of Veterans

Affairs, except that such certification of status shall only be required in every subsequent year evenly divisible by five.

Source: Laws 2014, LB1087, § 5; Laws 2016, LB683, § 1; Laws 2018, LB1089, § 6; Laws 2019, LB512, § 25; Laws 2023, LB727, § 84.
Operative date January 1, 2024.

77-3512 Homestead; exemption; application; when filed; failure to file; effect.

(1) It shall be the duty of each owner who wants a homestead exemption under section 77-3506, 77-3507, or 77-3508 to file an application therefor with the county assessor of the county in which the homestead is located after February 1 and on or before June 30 of each year, except that:

(a) The county board of the county in which the homestead is located may, by majority vote, extend the deadline for an applicant to on or before July 20. An extension shall not be granted to an applicant who received an extension in the immediately preceding year;

(b) An owner may file a late application pursuant to section 77-3514.01 if he or she includes documentation of a medical condition which impaired the owner's ability to file the application in a timely manner;

(c) An owner may file a late application pursuant to section 77-3514.01 if he or she includes a copy of the death certificate of a spouse who died during the year for which the exemption is requested;

(d) A veteran qualifying for a homestead exemption under subdivision (2)(a) of section 77-3506 shall only be required to file an application in every subsequent year evenly divisible by five; and

(e) If a veteran who has been granted a homestead exemption under subdivision (2)(a) of section 77-3506 dies during the five-year exemption period, the surviving spouse of such veteran shall continue to receive such exemption for the remainder of the five-year exemption period. After the expiration of the five-year exemption period, the surviving spouse shall be required to file for an exemption under subdivision (2)(b) of section 77-3506 on an annual basis.

(2) Failure to file an application as required in subsection (1) of this section shall constitute a waiver of the exemption for the year in which the failure occurred.

Source: Laws 1979, LB 65, § 12; Laws 1980, LB 647, § 7; Laws 1983, LB 195, § 5; Laws 1983, LB 396, § 2; Laws 1984, LB 809, § 8; Laws 1985, Second Spec. Sess., LB 6, § 4; Laws 1989, LB 84, § 12; Laws 1991, LB 9, § 5; Laws 1991, LB 773, § 21; Laws 1995, LB 133, § 1; Laws 1996, LB 1039, § 5; Laws 1997, LB 397, § 27; Laws 2003, LB 192, § 2; Laws 2009, LB94, § 3; Laws 2014, LB1087, § 12; Laws 2018, LB1089, § 15; Laws 2021, LB313, § 1; Laws 2023, LB727, § 85.
Operative date January 1, 2024.

77-3513 Homestead; exemption; notice; contents.

The county assessor shall mail a notice on or before April 1 to claimants who are the owners of a homestead which was granted an exemption under section 77-3506, 77-3507, or 77-3508 and who are required to refile for such exemption in the current year unless the claimant has already filed the application for the

current year or the county assessor has reason to believe there has been a change of circumstances so that the claimant no longer qualifies. The notice shall include the claimant's name, the application deadlines for the current year, a list of documents that must be filed with the application, and the county assessor's office address and telephone number.

Source: Laws 1979, LB 65, § 13; Laws 1980, LB 647, § 8; Laws 1983, LB 195, § 6; Laws 1983, LB 396, § 3; Laws 1984, LB 809, § 9; Laws 1985, Second Spec. Sess., LB 6, § 5; Laws 1986, LB 1258, § 6; Laws 1987, LB 376A, § 10; Laws 1991, LB 773, § 22; Laws 1994, LB 902, § 38; Laws 1995, LB 133, § 2; Laws 1996, LB 1039, § 6; Laws 1997, LB 397, § 28; Laws 1999, LB 179, § 4; Laws 2005, LB 54, § 19; Laws 2007, LB145, § 2; Laws 2009, LB94, § 4; Laws 2014, LB986, § 4; Laws 2014, LB1087, § 13; Laws 2018, LB1089, § 16; Laws 2023, LB727, § 86.
Operative date January 1, 2024.

77-3522 Violations; penalty; disallowance of claim; when; revocation of exemption; procedure; appeal.

(1) Any person who makes any false or fraudulent claim for exemption or any false statement or false representation of a material fact in support of such claim or any person who knowingly assists another in the preparation of any such false or fraudulent claim or enters into any collusion with another by the execution of a fictitious deed or other instrument for the purpose of obtaining unlawful exemption under sections 77-3501 to 77-3529 shall be guilty of a Class II misdemeanor and shall be subject to a forfeiture of any such exemption for a period of two years from the date of conviction. Any person who shall make an oath or affirmation to any false or fraudulent application for homestead exemption knowing the same to be false or fraudulent shall be guilty of a Class I misdemeanor.

(2) In addition to the penalty provided in subsection (1) of this section, if any person (a) files a claim for exemption as provided in section 77-3506, 77-3507, or 77-3508 which is excessive due to misstatements by the owner filing such claim or (b) fails to notify the county assessor of a change in status of a veteran qualifying for a homestead exemption under subdivision (2)(a) of section 77-3506 which affected all or a portion of the exemption period, including a change in rating, the death of the veteran, or a transfer of property not covered by section 77-3514, the claim may be disallowed in full and, if the claim has been allowed, an amount equal to the amount of taxes lawfully due during the applicable exemption period but not paid by reason of such unlawful and improper allowance of homestead exemption shall be due and shall upon entry of the amount thereof on the books of the county treasurer be a lien on such property until paid and a penalty and interest on such total sum as provided by statute on delinquent ad valorem taxes shall be assessed. Any amount paid to satisfy a lien imposed pursuant to this subsection shall be paid to the county treasurer in the same manner that other property taxes are paid, and the county treasurer shall remit such amount to the State Treasurer for credit to the General Fund. Any penalty collected pursuant to this subsection shall be retained by the county in which such penalty is assessed.

(3) For any veteran claiming a homestead exemption under subdivision (2)(a) of section 77-3506, the county assessor may revoke such exemption back to the

date on which the county assessor has reason to believe that the exemption was improper upon notice to the veteran of the revocation. The veteran may then provide evidence in favor of receiving the exemption to the county assessor, and the county assessor may revise any revocation based on such evidence. Any decision of the county assessor to revoke a homestead exemption under this subsection may be appealed to the county board of equalization within thirty days after the decision. The county board of equalization may reverse or modify the revocation if there is clear and convincing evidence that the veteran qualified for the exemption for a particular period of time.

(4) Any additional taxes or penalties imposed pursuant to this section may be appealed in the same manner as appeals are made under section 77-3519.

Source: Laws 1979, LB 65, § 22; Laws 1984, LB 809, § 13; Laws 1986, LB 1258, § 9; Laws 1989, LB 84, § 16; Laws 1994, LB 902, § 41; Laws 2014, LB1087, § 18; Laws 2018, LB1089, § 20; Laws 2023, LB727, § 87.

Operative date January 1, 2024.

ARTICLE 36

SCHOOL READINESS TAX CREDIT ACT

Section

- 77-3604. Child care and education provider; income tax credit; application; contents; approval; distribution.
- 77-3605. Eligible staff member; income tax credit; application; contents; approval.
- 77-3606. Department; limit on credits; claiming credit; procedure; fraud or misrepresentation; disallowance of credit.

77-3604 Child care and education provider; income tax credit; application; contents; approval; distribution.

(1) A child care and education provider whose eligible program provides services to children who participate in the child care subsidy program established pursuant to section 68-1202 may apply to the department to receive a nonrefundable tax credit against the income tax imposed by the Nebraska Revenue Act of 1967.

(2) The nonrefundable credit provided in this section shall be an amount equal to the average monthly number of children described in subsection (1) of this section who are attending the child care and education provider’s eligible program, multiplied by an amount based upon the quality scale rating of such eligible program as follows:

Quality Scale Rating of Eligible Program	Tax Credit Per Child Attending Eligible Program
Step Five	\$ 1,200
Step Four	\$ 1,000
Step Three	\$ 800
Step Two	\$ 600
Step One	\$ 400

(3) A child care and education provider shall apply for the credit provided in this section by submitting an application to the department with the following information:

(a) The number of children described in subsection (1) of this section who attended the child care and education provider’s eligible program during each month of the most recently completed taxable year;

(b) Documentation to show the quality scale rating of the child care and education provider’s eligible program; and

(c) Any other documentation required by the department.

(4) Subject to subsection (5) of this section, if the department determines that the child care and education provider qualifies for tax credits under this section, it shall approve the application and certify the amount of credits approved to the child care and education provider.

(5) The department shall consider applications in the order in which they are received and may approve tax credits under this section in any taxable year until the aggregate limit allowed under subsection (1) of section 77-3606 has been reached.

(6) If the child care and education provider is (a) a partnership, (b) a limited liability company, (c) a corporation having an election in effect under subchapter S of the Internal Revenue Code of 1986, as amended, or (d) an estate or trust, the tax credit provided in this section may be distributed in the same manner and proportion as the partner, member, shareholder, or beneficiary reports the partnership, limited liability company, subchapter S corporation, estate, or trust income.

(7) The credit provided in this section shall be available for taxable years beginning or deemed to begin on or after January 1, 2024, under the Internal Revenue Code of 1986, as amended.

Source: Laws 2016, LB889, § 4; Laws 2020, LB266, § 3; Laws 2023, LB754, § 17.
Effective date June 1, 2023.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3605 Eligible staff member; income tax credit; application; contents; approval.

(1) An eligible staff member may apply to the department to receive a refundable tax credit against the income tax imposed by the Nebraska Revenue Act of 1967. The amount of the credit shall be based on the eligible staff member’s classification under subsection (4) of section 71-1962 as follows:

Eligible Staff Member’s Classification	Tax Credit
Level Five	\$ 3,500
Level Four	\$ 3,200
Level Three	\$ 2,900
Level Two	\$ 2,600
Level One	\$ 2,300

(2) An eligible staff member shall apply for the credit provided in this section by submitting an application to the department with the following information:

(a) The eligible staff member’s name and place of employment;

(b) An attestation form provided by the Nebraska Early Childhood Professional Record System verifying the level at which the eligible staff member is classified under subsection (4) of section 71-1962; and

(c) Any other documentation required by the department.

(3) Subject to subsection (4) of this section, if the department determines that the eligible staff member qualifies for tax credits under this section, it shall approve the application and certify the amount of credits approved to the eligible staff member.

(4) The department shall consider applications in the order in which they are received and may approve tax credits under this section in any taxable year until the aggregate limit allowed under subsection (1) of section 77-3606 has been reached.

(5) The credit provided in this section shall be available for taxable years beginning or deemed to begin on or after January 1, 2024, under the Internal Revenue Code of 1986, as amended.

(6) For taxable years beginning or deemed to begin on or after January 1, 2025, under the Internal Revenue Code of 1986, as amended, the Tax Commissioner shall adjust the credit amounts provided for in subsection (1) of this section by the percentage change in the Consumer Price Index for All Urban Consumers, as prepared by the United States Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending on August 31 of the year preceding the taxable year.

Source: Laws 2016, LB889, § 5; Laws 2023, LB754, § 18.
Effective date June 1, 2023.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3606 Department; limit on credits; claiming credit; procedure; fraud or misrepresentation; disallowance of credit.

(1) The department may approve tax credits under the School Readiness Tax Credit Act each taxable year until the total amount of credits approved for the taxable year reaches seven million five hundred thousand dollars.

(2) A child care and education provider shall claim any tax credits granted under the act by attaching the tax credit certification received from the department under section 77-3604 to the child care and education provider's tax return. An eligible staff member shall claim any tax credits granted under the act by attaching the tax credit certification received from the department under section 77-3605 to the eligible staff member's tax return.

(3) If the department finds that a person has obtained a credit by fraud or misrepresentation, the credits shall be disallowed and the taxpayer's state income tax for such taxable year shall be increased by the amount necessary to recapture the credit.

(4) Credits granted to a taxpayer, but later disallowed, may be recovered by the department within three years from the end of the year in which the credit was claimed.

Source: Laws 2016, LB889, § 6; Laws 2023, LB754, § 19.
Effective date June 1, 2023.

ARTICLE 40 TOBACCO PRODUCTS TAX

Section
77-4001. Act, how cited.

Section

- 77-4002. Definitions; where found.
 77-4003.01. Consumable material, defined.
 77-4003.02. Electronic nicotine delivery system, defined.
 77-4007. Tobacco products, defined.
 77-4008. Tax imposed; payment.
 77-4025. Tobacco Products Administration Cash Fund; created; use; investment.

77-4001 Act, how cited.

Sections 77-4001 to 77-4025 shall be known and may be cited as the Tobacco Products Tax Act.

Source: Laws 1987, LB 730, § 1; Laws 2009, LB89, § 1; Laws 2023, LB727, § 88.
 Operative date January 1, 2024.

77-4002 Definitions; where found.

For purposes of the Tobacco Products Tax Act, unless the context otherwise requires, the definitions found in sections 77-4003 to 77-4007 shall be used.

Source: Laws 1987, LB 730, § 2; Laws 2009, LB89, § 2; Laws 2023, LB727, § 89.
 Operative date January 1, 2024.

77-4003.01 Consumable material, defined.

Consumable material means any liquid solution or other material containing nicotine that is depleted as an electronic nicotine delivery system is used.

Source: Laws 2023, LB727, § 90.
 Operative date January 1, 2024.

77-4003.02 Electronic nicotine delivery system, defined.

Electronic nicotine delivery system has the same meaning as in section 28-1418.01.

Source: Laws 2023, LB727, § 91.
 Operative date January 1, 2024.

77-4007 Tobacco products, defined.

Tobacco products shall mean (1) cigars, (2) cheroots, (3) stogies, (4) periques, (5) granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, (6) snuff, (7) snuff flour, (8) cavendish, (9) plug and twist tobacco, (10) fine cut and other chewing tobacco, (11) shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco, (12) other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise or both for chewing and smoking, and (13) electronic nicotine delivery systems, except that tobacco products shall not mean cigarettes as defined in section 77-2601.

Source: Laws 1987, LB 730, § 7; Laws 2023, LB727, § 92.
 Operative date January 1, 2024.

77-4008 Tax imposed; payment.

(1)(a) A tax is hereby imposed upon the first owner of tobacco products to be sold in this state.

(b) The tax on snuff shall be forty-four cents per ounce and a proportionate tax at the like rate on all fractional parts of an ounce. Such tax shall be computed based on the net weight as listed by the manufacturer.

(c) The tax on an electronic nicotine delivery system containing three milliliters or less of consumable material shall be five cents per milliliter of consumable material and a proportionate tax at the like rate on all fractional parts of a milliliter.

(d) The tax on an electronic nicotine delivery system containing more than three milliliters of consumable material shall be ten percent of (i) the purchase price of such electronic nicotine delivery system paid by the first owner or (ii) the price at which the first owner who made, manufactured, or fabricated the electronic nicotine delivery system sells the item to others.

(e) For electronic nicotine delivery systems in the possession of retail dealers for which tax has not been paid, the tax under this subsection shall be imposed at the earliest time the retail dealer: (i) Brings or causes to be brought into the state any electronic nicotine delivery system for sale; (ii) makes, manufactures, or fabricates any electronic nicotine delivery system in this state for sale in this state; or (iii) sells any electronic nicotine delivery system to consumers within this state.

(f) The tax on tobacco products other than snuff and electronic nicotine delivery systems shall be twenty percent of (i) the purchase price of such tobacco products paid by the first owner or (ii) the price at which a first owner who made, manufactured, or fabricated the tobacco product sells the items to others.

(g) The tax on tobacco products shall be in addition to all other taxes.

(2) Whenever any person who is licensed under section 77-4009 purchases tobacco products from another person licensed under section 77-4009, the seller shall be liable for the payment of the tax.

(3) Amounts collected pursuant to this section shall be used and distributed pursuant to section 77-4025.

Source: Laws 1987, LB 730, § 8; Laws 2002, LB 1085, § 20; Laws 2003, LB 759, § 24; Laws 2009, LB89, § 4; Laws 2023, LB727, § 93.
Operative date January 1, 2024.

77-4025 Tobacco Products Administration Cash Fund; created; use; investment.

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

(2) All costs required for administration of the Tobacco Products Tax Act shall be paid from the Tobacco Products Administration Cash Fund. Credits and refunds allowed under the act shall be paid from the Tobacco Products Administration Cash Fund. Any receipts, after credits and refunds, in excess of the amounts sufficient to cover the costs of administration may be transferred to the General Fund at the direction of the Legislature.

(3) Any money in the Tobacco Products Administration 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 1987, LB 730, § 25; Laws 1989, LB 258, § 12; Laws 1994, LB 1066, § 85; Laws 2002, LB 1085, § 21; Laws 2002, LB 1310, § 10; Laws 2009, LB89, § 7; Laws 2023, LB727, § 94.
Operative date January 1, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 42

PROPERTY TAX CREDIT ACT

Section

77-4212. Property tax credit; minimum amount; county treasurer; duties; disbursement to counties; Property Tax Administrator; State Treasurer; duties.

77-4212 Property tax credit; minimum amount; county treasurer; duties; disbursement to counties; Property Tax Administrator; State Treasurer; duties.

(1) For tax year 2007, the amount of relief granted under the Property Tax Credit Act shall be one hundred five million dollars. For tax year 2008, the amount of relief granted under the act shall be one hundred fifteen million dollars. It is the intent of the Legislature to fund the Property Tax Credit Act for tax years after tax year 2008 using available revenue. For tax year 2017, the amount of relief granted under the act shall be two hundred twenty-four million dollars. For tax year 2020 through tax year 2022, the minimum amount of relief granted under the act shall be two hundred seventy-five million dollars. For tax year 2023, the minimum amount of relief granted under the act shall be three hundred sixty million dollars. For tax year 2024, the minimum amount of relief granted under the act shall be three hundred ninety-five million dollars. For tax year 2025, the minimum amount of relief granted under the act shall be four hundred thirty million dollars. For tax year 2026, the minimum amount of relief granted under the act shall be four hundred forty-five million dollars. For tax year 2027, the minimum amount of relief granted under the act shall be four hundred sixty million dollars. For tax year 2028, the minimum amount of relief granted under the act shall be four hundred seventy-five million dollars. For tax year 2029, the minimum amount of relief granted under the act shall be the minimum amount from the prior tax year plus a percentage increase equal to the percentage increase, if any, in the total assessed value of all real property in the state from the prior year to the current year, as determined by the Department of Revenue, plus an additional seventy-five million dollars. For tax year 2030 and each tax year thereafter, the minimum amount of relief granted under the act shall be the minimum amount from the prior tax year plus a percentage increase equal to the percentage increase, if any, in the total assessed value of all real property in the state from the prior year to the current year, as determined by the Department of Revenue. If money is transferred or credited to the Property Tax Credit Cash Fund pursuant to any other state law, such amount shall be added to the minimum amount required under this subsection when determining the total amount of relief granted under the act.

The relief shall be in the form of a property tax credit which appears on the property tax statement.

(2)(a) For tax years prior to tax year 2017, to determine the amount of the property tax credit, the county treasurer shall multiply the amount disbursed to the county under subdivision (4)(a) of this section by the ratio of the real property valuation of the parcel to the total real property valuation in the county. The amount determined shall be the property tax credit for the property.

(b) Beginning with tax year 2017, to determine the amount of the property tax credit, the county treasurer shall multiply the amount disbursed to the county under subdivision (4)(b) of this section by the ratio of the credit allocation valuation of the parcel to the total credit allocation valuation in the county. The amount determined shall be the property tax credit for the property.

(3) If the real property owner qualifies for a homestead exemption under sections 77-3501 to 77-3529, the owner shall also be qualified for the relief provided in the act to the extent of any remaining liability after calculation of the relief provided by the homestead exemption. If the credit results in a property tax liability on the homestead that is less than zero, the amount of the credit which cannot be used by the taxpayer shall be returned to the Property Tax Administrator by July 1 of the year the amount disbursed to the county was disbursed. The Property Tax Administrator shall immediately credit any funds returned under this subsection to the Property Tax Credit Cash Fund. Upon the return of any funds under this subsection, the county treasurer shall electronically file a report with the Property Tax Administrator, on a form prescribed by the Tax Commissioner, indicating the amount of funds distributed to each taxing unit in the county in the year the funds were returned, any collection fee retained by the county in such year, and the amount of unused credits returned.

(4)(a) For tax years prior to tax year 2017, the amount disbursed to each county shall be equal to the amount available for disbursement determined under subsection (1) of this section multiplied by the ratio of the real property valuation in the county to the real property valuation in the state. By September 15, the Property Tax Administrator shall determine the amount to be disbursed under this subdivision to each county and certify such amounts to the State Treasurer and to each county. The disbursements to the counties shall occur in two equal payments, the first on or before January 31 and the second on or before April 1. After retaining one percent of the receipts for costs, the county treasurer shall allocate the remaining receipts to each taxing unit levying taxes on taxable property in the tax district in which the real property is located in the same proportion that the levy of such taxing unit bears to the total levy on taxable property of all the taxing units in the tax district in which the real property is located.

(b) Beginning with tax year 2017, the amount disbursed to each county shall be equal to the amount available for disbursement determined under subsection (1) of this section multiplied by the ratio of the credit allocation valuation in the county to the credit allocation valuation in the state. By September 15, the Property Tax Administrator shall determine the amount to be disbursed under this subdivision to each county and certify such amounts to the State Treasurer and to each county. The disbursements to the counties shall occur in two equal payments, the first on or before January 31 and the second on or before April 1.

After retaining one percent of the receipts for costs, the county treasurer shall allocate the remaining receipts to each taxing unit based on its share of the credits granted to all taxpayers in the taxing unit.

(5) For purposes of this section, credit allocation valuation means the taxable value for all real property except agricultural land and horticultural land, one hundred twenty percent of taxable value for agricultural land and horticultural land that is not subject to special valuation, and one hundred twenty percent of taxable value for agricultural land and horticultural land that is subject to special valuation.

(6) The State Treasurer shall transfer from the General Fund to the Property Tax Credit Cash Fund one hundred five million dollars by August 1, 2007, and one hundred fifteen million dollars by August 1, 2008.

(7) The Legislature shall have the power to transfer funds from the Property Tax Credit Cash Fund to the General Fund.

Source: Laws 2007, LB367, § 4; Laws 2014, LB1087, § 21; Laws 2016, LB958, § 1; Laws 2017, LB217, § 22; Laws 2020, LB1107, § 136; Laws 2021, LB509, § 14; Laws 2023, LB243, § 13.
Operative date September 2, 2023.

ARTICLE 44

GOOD LIFE TRANSFORMATIONAL PROJECTS ACT

Section

- 77-4401. Act, how cited.
- 77-4402. Purpose of act; legislative findings.
- 77-4403. Terms, defined.
- 77-4404. Good life district; application; contents; confidential.
- 77-4405. Good life district; project; approval; eligibility; reduced sales tax rate.
- 77-4406. Good life district; terminate; conditions.
- 77-4407. Act; not construed to limit authority of political subdivision.

77-4401 Act, how cited.

Sections 77-4401 to 77-4407 shall be known and may be cited as the Good Life Transformational Projects Act.

Source: Laws 2023, LB727, § 9.
Operative date June 7, 2023.

77-4402 Purpose of act; legislative findings.

(1) The purpose of the Good Life Transformational Projects Act is to promote and develop the general and economic welfare of this state and its communities by providing support for unique Nebraska projects that will attract new industries and employment opportunities and further grow and strengthen Nebraska’s retail, entertainment, and tourism industries.

(2) The Legislature finds that it will be beneficial to the economic well-being of the people of this state to encourage transformational development projects within the state that create jobs, infrastructure, and other improvements and attract and retain tourists and college graduates from around the state.

(3) The Legislature further finds that such projects will (a) generate new economic activity, as well as additional state and local taxes from persons residing within and outside the state, (b) create new economic opportunities

and jobs for residents, and (c) promote new-to-market retail, entertainment, and dining attractions.

Source: Laws 2023, LB727, § 10.
Operative date June 7, 2023.

77-4403 Terms, defined.

For purposes of the Good Life Transformational Projects Act:

- (1) Department means the Department of Economic Development; and
- (2) Good life district means a district established pursuant to section 77-4405.

Source: Laws 2023, LB727, § 11.
Operative date June 7, 2023.

77-4404 Good life district; application; contents; confidential.

(1) Until December 31, 2024, any person may apply to the department to create a good life district. All applications shall be in writing and shall contain:

(a) A description of the proposed project to be undertaken within the good life district, including a description of any existing development, an estimate of the total new development costs for the project, and an estimate of the number of new jobs to be created as a result of the project;

(b) A map identifying the good life district to be used for purposes of the project;

(c) A description of the proposed financing of the project;

(d) Documentation of local financial commitment to support the project, including all public and private resources pledged or committed to the project and including a copy of any operating agreement or lease with substantial users of the project area; and

(e) Sufficient documents, plans, and specifications as required by the department to define the project, including the following:

(i) A statement of how the jobs and taxes obtained from the project will contribute significantly to the economic development of the state and region;

(ii) Visitation expectations and a plan describing how the number of visitors to the good life district will be tracked and reported on an annual basis;

(iii) Any unique qualities of the project;

(iv) An economic impact study, including the anticipated effect of the project on the regional and statewide economies;

(v) Project accountability, measured according to best industry practices;

(vi) The expected return on state and local investment the project is anticipated to produce; and

(vii) A summary of community involvement, participation, and support for the project.

(2) Upon receiving an application, the department shall review the application and notify the applicant of any additional information needed for a proper evaluation of the application.

(3) The application and all supporting information shall be confidential except for the location of the project, the total new development costs estimated

for the project, and the number of new jobs estimated to be created as a result of the project.

Source: Laws 2023, LB727, § 12.

Operative date June 7, 2023.

77-4405 Good life district; project; approval; eligibility; reduced sales tax rate.

(1) If the department finds that the project described in the application meets the eligibility requirements of this section, the application shall be approved.

(2) A project is eligible if:

(a) The applicant demonstrates that the total new development costs of the project will exceed:

(i) One billion dollars if the project will be located in a city of the metropolitan class;

(ii) Seven hundred fifty million dollars if the project will be located in a city of the primary class;

(iii) Five hundred million dollars if the project will be located in a city of the first class, city of the second class, or village within a county with a population of one hundred thousand inhabitants or more; or

(iv) One hundred million dollars if the project will be located in a city of the first class, city of the second class, or village within a county with a population of less than one hundred thousand inhabitants;

(b) The applicant demonstrates that the project will directly or indirectly result in the creation of:

(i) One thousand new jobs if the project will be located in a city of the metropolitan class;

(ii) Five hundred new jobs if the project will be located in a city of the primary class;

(iii) Two hundred fifty new jobs if the project will be located in a city of the first class, city of the second class, or village within a county with a population of one hundred thousand inhabitants or more; or

(iv) Fifty new jobs if the project will be located in a city of the first class, city of the second class, or village within a county with a population of less than one hundred thousand inhabitants; and

(c)(i) For a project that will be located in a county with a population of one hundred thousand inhabitants or more, the applicant demonstrates that, upon completion of the project, at least twenty percent of sales at the project will be made to persons residing outside the State of Nebraska or the project will generate a minimum of six hundred thousand visitors per year who reside outside the State of Nebraska and the project will attract new-to-market retail to the state and will generate a minimum of three million visitors per year; or

(ii) For a project that will be located in a county with a population of less than one hundred thousand inhabitants, the applicant demonstrates that, upon completion of the project, at least twenty percent of sales at the project will be made to persons residing outside the State of Nebraska.

(3) The applicant must certify that any anticipated diversion of state sales tax revenue will be offset or exceeded by sales tax paid on anticipated development costs, including construction to real property, during the same period.

(4) A project is not eligible if the project includes a licensed racetrack enclosure or an authorized gaming operator as such terms are defined in section 9-1103.

(5) Approval of an application under this section shall establish the good life district as that area depicted in the map accompanying the application as submitted pursuant to subdivision (1)(b) of section 77-4404. Such district shall last for twenty-five years and shall not exceed two thousand acres in size.

(6) Upon establishment of a good life district under this section, any transactions occurring within the district shall be subject to a reduced sales tax rate as provided in section 77-2701.02.

Source: Laws 2023, LB727, § 13.

Operative date June 7, 2023.

77-4406 Good life district; terminate; conditions.

The department shall terminate a good life district established pursuant to section 77-4405 if the applicant has not met seventy-five percent of the investment threshold required under subdivision (2)(a) of section 77-4405 within ten years after establishment of such district.

Source: Laws 2023, LB727, § 14.

Operative date June 7, 2023.

77-4407 Act; not construed to limit authority of political subdivision.

No provision in the Good Life Transformational Projects Act shall be construed to limit the existing statutory authority of any political subdivision.

Source: Laws 2023, LB727, § 15.

Operative date June 7, 2023.

ARTICLE 50

TAX EQUALIZATION AND REVIEW COMMISSION ACT

Section

77-5003. Tax Equalization and Review Commission; created; commissioners; term.

77-5004. Commissioner; qualifications; conflict of interests; continuing education; expenses; mileage; salaries.

77-5015.02. Single commissioner hearing; evidence; record; rehearing.

77-5003 Tax Equalization and Review Commission; created; commissioners; term.

(1) The Tax Equalization and Review Commission is created. The Tax Commissioner has no supervision, authority, or control over the actions or decisions of the commission relating to its duties prescribed by law. Beginning July 1, 2023, the commission shall have four commissioners, one commissioner from each congressional district and one at-large commissioner, with terms as provided in subsection (2) of this section. All commissioners shall be appointed by the Governor with the approval of a majority of the members of the Legislature.

(2) The term of the commissioner from district 1 expires January 1, 2028, the term of the commissioner from district 2 expires January 1, 2024, the term of

the commissioner from district 3 expires January 1, 2026, and the term of the at-large commissioner expires January 1, 2028. After the terms of the commissioners are completed as provided in this subsection, each subsequent term shall be for six years beginning and ending on January 1 of the applicable year. Vacancies occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of his or her term of office, a commissioner shall continue to serve until his or her successor has been appointed.

(3) The commission shall designate pursuant to rule and regulation its chairperson and vice-chairperson on a two-year, rotating basis.

(4) A commissioner may be removed by the Governor for misfeasance, malfeasance, or willful neglect of duty or other cause after notice and a public hearing unless notice and hearing are expressly waived in writing by the commissioner.

Source: Laws 1995, LB 490, § 3; Laws 1998, LB 1104, § 24; Laws 2001, LB 465, § 3; Laws 2003, LB 291, § 5; Laws 2007, LB167, § 4; Laws 2011, LB384, § 21; Laws 2023, LB243, § 14.
Operative date July 1, 2023.

77-5004 Commissioner; qualifications; conflict of interests; continuing education; expenses; mileage; salaries.

(1) Each commissioner shall be a qualified voter and resident of the state and a domiciliary of the district from which he or she is appointed.

(2) Each commissioner shall devote his or her full time and efforts to the discharge of his or her duties and shall not hold any other office under the laws of this state, any city or county in this state, or the United States Government while serving on the commission. Each commissioner shall possess:

(a) Appropriate knowledge of terms commonly used in or related to real property appraisal and of the writing of appraisal reports;

(b) Adequate knowledge of depreciation theories, cost estimating, methods of capitalization, and real property appraisal mathematics;

(c) An understanding of the principles of land economics, appraisal processes, and problems encountered in the gathering, interpreting, and evaluating of data involved in the valuation of real property, including complex industrial properties and mass appraisal techniques;

(d) Knowledge of the law relating to taxation, civil and administrative procedure, due process, and evidence in Nebraska;

(e) At least thirty hours of successfully completed class hours in courses of study, approved by the Real Property Appraiser Board, which relate to appraisal and which include the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course. If a commissioner has not received such training prior to his or her appointment, such training shall be completed within one year after appointment; and

(f) Such other qualifications and skills as reasonably may be requisite for the effective and reliable performance of the commission's duties.

(3) At least one commissioner shall possess the certification or training required to become a licensed residential real property appraiser as set forth in section 76-2230.

(4) At least two commissioners shall have been engaged in the practice of law in the State of Nebraska for at least five years, which may include prior service as a judge, and shall be currently admitted to practice before the Nebraska Supreme Court. The attorney commissioners shall be presiding hearing officers for commission proceedings involving appeal hearings and other proceedings involving panels of more than one commissioner.

(5) No commissioner or employee of the commission shall hold any position of profit or engage in any occupation or business interfering with or inconsistent with his or her duties as a commissioner or employee. A person is not eligible for appointment and may not hold the office of commissioner or be appointed by the commission to or hold any office or position under the commission if he or she holds any official office or position.

(6) Each commissioner shall annually attend a seminar or class of at least two days' duration that is:

(a) Sponsored by a recognized assessment or appraisal organization, in each of these areas: Utility and railroad appraisal; appraisal of complex industrial properties; appraisal of other hard to assess properties; and mass appraisal, residential or agricultural appraisal, or assessment administration; or

(b) Pertaining to management, law, civil or administrative procedure, or other knowledge or skill necessary for performing the duties of the office.

(7) Each commissioner shall within two years after his or her appointment attend at least thirty hours of instruction that constitutes training for judges or administrative law judges.

(8) The commissioners shall be considered employees of the state for purposes of sections 81-1320 to 81-1328 and 84-1601 to 84-1615.

(9) The commissioners shall be reimbursed as prescribed in sections 81-1174 to 81-1177 for expenses in the performance of their official duties pursuant to the Tax Equalization and Review Commission Act.

(10) Due to the domicile requirements of subsection (1) of this section and subsection (1) of section 77-5003, each commissioner shall be reimbursed for mileage at the rate provided in section 81-1176 for actual round trip travel from the commissioner's residence to the state office building described in section 81-1108.37 or to the location of any hearing or other official business of the commission. Reimbursements under this subsection shall be made from the Tax Equalization and Review Commission Cash Fund.

(11) The salary for commissioners serving as a presiding hearing officer for commission hearings and proceedings involving a panel of more than one commissioner shall be in an amount equal to eighty-five percent of the salary set for the Chief Justice and judges of the Supreme Court. The salary for commissioners not serving as a presiding hearing officer for commission hearings or proceedings involving a panel of more than one commissioner shall be in an amount equal to seventy percent of the salary set for the Chief Justice and judges of the Supreme Court.

Source: Laws 1995, LB 490, § 4; Laws 1996, LB 1038, § 2; Laws 1999, LB 32, § 1; Laws 2001, LB 170, § 19; Laws 2001, LB 465, § 4; Laws 2002, LB 994, § 28; Laws 2003, LB 292, § 15; Laws 2004, LB 973, § 47; Laws 2006, LB 778, § 73; Laws 2007, LB186, § 25; Laws 2008, LB965, § 20; Laws 2010, LB931, § 25; Laws 2011,

LB384, § 22; Laws 2020, LB4, § 1; Laws 2020, LB381, § 85;
 Laws 2023, LB243, § 15.
 Operative date July 1, 2023.

77-5015.02 Single commissioner hearing; evidence; record; rehearing.

(1) A single commissioner may hear an appeal and cross appeal and appeals and cross appeals consolidated with any such appeal and cross appeal when:

(a) The taxable value of each parcel is two million dollars or less as determined by the county board of equalization; and

(b) The appeal and cross appeal has been designated for hearing pursuant to this section by the chairperson of the commission or in such manner as the commission may provide in its rules and regulations.

(2) A proceeding held before a single commissioner shall be informal. The usual common-law or statutory rules of evidence, including rules of hearsay, shall not apply, and the commissioner may consider and utilize all matters presented at the proceeding in making his or her determination.

(3) Any party to an appeal designated for hearing before a single commissioner pursuant to this section may, prior to a hearing, elect in writing to have the appeal heard by the commission. The commissioner conducting a proceeding pursuant to this section may at any time designate the appeal for hearing by the commission.

(4) Documents necessary to establish jurisdiction of the commission shall constitute the record of a proceeding before a single commissioner. No recording shall be made of a proceeding before a single commissioner.

(5) A party to a proceeding before a single commissioner may request a rehearing pursuant to section 77-5005.

(6) An order entered by a single commissioner pursuant to this section may not be appealed pursuant to section 77-5019 or any other provision of law.

(7) Subdivisions (3), (6), (8), (9), (10), (11), and (12) of section 77-5016 apply to proceedings before a single commissioner.

Source: Laws 2011, LB384, § 28; Laws 2023, LB243, § 16.
 Operative date July 1, 2023.

ARTICLE 52

BEGINNING FARMER TAX CREDIT ACT

Section

- 77-5203. Terms, defined.
- 77-5205. Board; members; vacancies; removal.
- 77-5208. Board; meetings; application; approval; deadline.
- 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.
- 77-5213. Tax credit; amount; agreement; review.

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 improved or unimproved tract of land 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; Laws 2023, LB562, § 13.
 Effective date September 2, 2023.

77-5205 Board; members; vacancies; removal.

The board shall consist of the following members:

- (1) The Director of Agriculture or his or her designee;
- (2) The Tax Commissioner or his or her designee;
- (3) One individual representing lenders of agricultural credit;
- (4) One individual of the academic community with extensive knowledge and insight in the analysis of agricultural economic issues; and
- (5) Three individuals who are currently engaged in farming or livestock production and are representative of a variety of farming or livestock production interests based on size of farm, type of farm operation, net worth of farm operation, and geographic location.

All members of the board shall be resident individuals as defined in section 77-2714.01. Members of the board listed in subdivisions (3) through (5) of this section shall be appointed by the Governor with the approval of a majority of the Legislature. All appointments shall be for terms of four years.

Vacancies in the appointed membership of the board shall be filled for the unexpired term by appointment by the Governor. Members of the board shall serve the full term and until a successor has been appointed by the Governor and approved by the Legislature. Any member is eligible for reappointment. Any member may be removed from the board by the Governor or by an affirmative vote by any four members of the board for incompetence, neglect of duty, or malfeasance.

Source: Laws 1999, LB 630, § 6; Laws 2023, LB562, § 14.
Effective date September 2, 2023.

77-5208 Board; meetings; application; approval; deadline.

The board shall meet at least twice during the year. The board shall review pending applications in order to approve and certify beginning farmers and livestock producers as eligible for the programs provided by the board, to approve and certify owners of agricultural assets as eligible for the tax credits authorized by sections 77-5211 to 77-5213, and to approve and certify qualified beginning farmers and livestock producers as eligible for the tax credit authorized by section 77-5209.01 and for qualification to claim an exemption of taxable tangible personal property as provided by section 77-5209.02. No new applications for any such programs, tax credits, or exemptions shall be approved or certified by the board after December 31, 2027. Any action taken by the board regarding approval and certification of program eligibility, granting of tax credits, or termination of rental agreements shall require the affirmative vote of at least four members of the board.

Source: Laws 1999, LB 630, § 9; Laws 2006, LB 990, § 10; Laws 2008, LB1027, § 6; Laws 2015, LB538, § 12; Laws 2016, LB1022, § 8; Laws 2021, LB432, § 15; Laws 2023, LB562, § 15.
Effective date September 2, 2023.

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 seven hundred fifty 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; (h) is of legal age to enter into and be legally responsible for a binding contract or lease as provided under section 43-2101; and (i) 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, 2023, 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 2022 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) When determining a qualified beginning farmer's or livestock producer's net worth, the board shall exclude from such determination any pension, retirement, or other types of deferred benefit accounts owned by the beginning farmer or livestock producer, including such accounts owned by a spouse or dependent.

(3) 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; Laws 2023, LB562, § 16.
Effective date September 2, 2023.

77-5209.01 Tax credit for financial management program participation.

A qualified beginning farmer or livestock producer 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; Laws 2023, LB562, § 17.
Effective date September 2, 2023.

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.

(8) The total amount of credits granted under this section shall not exceed two million dollars per year. In calculating such limit, the board shall consider the cumulative amount of credits requested in the application submitted by the owner of agricultural assets rather than the amount of credits actually claimed by such owner.

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; Laws 2023, LB562, § 18.

Effective date September 2, 2023.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-5213 Tax credit; amount; agreement; review.

(1) The tax credit approved and certified by the board under section 77-5211 for an owner of agricultural assets in the first, second, or third year of a qualifying rental agreement shall be equal to (a) ten percent of the gross rental income stated in a rental agreement that is a cash rent agreement or (b) fifteen percent of the cash equivalent of the gross rental income in a rental agreement that is a share-rent agreement. Tax credits shall only be approved and certified for rental agreements that are approved and certified by the board under the Beginning Farmer Tax Credit Act.

(2) To qualify for the greater rate of credit allowed under subdivision (1)(b) of this section, a share-rent agreement shall provide for sharing of production expenses or risk of loss, or both, between the agricultural asset owner and the qualified beginning farmer or livestock producer. The board may adopt and promulgate rules and regulations, consistent with the policy objectives of the act, to further define the standards that share-rent agreements shall meet for approval and certification of the tax credit under the act.

(3) The board shall review each existing three-year rental agreement between a beginning farmer or livestock producer and an owner of agricultural assets on an annual basis and shall either certify or terminate program eligibility for beginning farmers or livestock producers or tax credits granted to owners of agricultural assets on an annual basis.

Source: Laws 1999, LB 630, § 14; Laws 2006, LB 990, § 15; Laws 2023, LB562, § 19.

Effective date September 2, 2023.

ARTICLE 58

NEBRASKA ADVANTAGE RESEARCH AND DEVELOPMENT ACT

Section
77-5803. Research tax credit; amount.
77-5806. Applicability of act.

Section

77-5808. Employees; verification of status required, when; research tax credit; calculation.

77-5803 Research tax credit; amount.

(1)(a) Except as provided in subdivision (1)(b) of this section, any business firm which makes expenditures in research and experimental activities as defined in section 174 of the Internal Revenue Code of 1986, as amended, in this state shall be allowed a research tax credit as provided in the Nebraska Advantage Research and Development Act. The credit amount under this subdivision shall equal fifteen percent of the federal credit allowed under section 41 of the Internal Revenue Code of 1986, as amended, or as apportioned to this state under subsection (2) of this section. The credit shall be allowed for the first tax year it is claimed and for each tax year following.

(b) Any business firm which makes expenditures in research and experimental activities as defined in section 174 of the Internal Revenue Code of 1986, as amended, on the campus of a college or university in this state or at a facility owned by a college or university in this state shall be allowed a research tax credit as provided in the Nebraska Advantage Research and Development Act. The credit amount under this subdivision shall equal thirty-five percent of the federal credit allowed under section 41 of the Internal Revenue Code of 1986, as amended, or as apportioned to this state under subsection (2) of this section. The credit shall be allowed for the first tax year it is claimed and for each tax year following.

(2) For any business firm doing business both within and without this state, the amount of the credit may be determined either by dividing the amount expended in research and experimental activities in this state in any tax year by the total amount expended in research and experimental activities or by apportioning the amount of the credit on the federal income tax return to the state based on the average of the property factor as determined in section 77-2734.12 and the payroll factor as determined in section 77-2734.13.

Source: Laws 2005, LB 312, § 61; Laws 2007, LB223, § 31; Laws 2008, LB915, § 7; Laws 2009, LB555, § 1; Laws 2012, LB983, § 1; Laws 2023, LB727, § 95.
Operative date September 2, 2023.

77-5806 Applicability of act.

The Nebraska Advantage Research and Development Act shall be operative for all tax years beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended. No business firm shall be allowed to first claim the credit for any tax year beginning or deemed to begin after December 31, 2033, under the Internal Revenue Code of 1986, as amended.

Source: Laws 2005, LB 312, § 64; Laws 2009, LB164, § 10; Laws 2014, LB1067, § 3; Laws 2015, LB538, § 14; Laws 2016, LB1022, § 10; Laws 2023, LB727, § 96.
Operative date September 2, 2023.

77-5808 Employees; verification of status required, when; research tax credit; calculation.

(1) This subsection shall apply for tax years beginning or deemed to begin on or after January 1, 2009, and before January 1, 2023. The Tax Commissioner shall not approve or grant to any person any tax incentive under the Nebraska Advantage Research and Development Act unless the taxpayer provides evidence satisfactory to the Tax Commissioner that the taxpayer electronically verified the work eligibility status of newly hired employees employed in Nebraska.

(2) This subsection shall apply for tax years beginning or deemed to begin on or after January 1, 2023. When calculating the research tax credit as provided in the Nebraska Advantage Research and Development Act, the qualified research expenses claimed in computing the federal credit allowed under section 41 of the Internal Revenue Code of 1986, as amended, shall be adjusted to the extent the taxpayer includes, in such qualified research expenses, compensation paid to an employee of such taxpayer hired during or after the first tax year for which the Nebraska Advantage Research and Development Act credit is claimed by such firm and to the extent such compensation is subject to Nebraska income tax. Such compensation, for the tax year in which the credit is being claimed, shall be deducted from the taxpayer's qualified research expenses unless such employee was verified as eligible to work in the United States using the federal E-Verify system within ninety days after the date of hire of such employee or such longer period as may be permitted under the rules of the federal E-Verify system. Such verification may be performed by the taxpayer or by someone on the taxpayer's behalf.

Source: Laws 2009, LB403, § 13; Laws 2023, LB727, § 97.
Operative date September 2, 2023.

ARTICLE 67

NEBRASKA PROPERTY TAX INCENTIVE ACT

Section

77-6702. Terms, defined.

77-6703. Tax credit for school district taxes paid.

77-6706. Tax credit for community college taxes paid.

77-6702 Terms, defined.

For purposes of the Nebraska Property Tax Incentive Act:

(1) Allowable growth percentage means the percentage increase, if any, in the total assessed value of all real property in the state from the prior year to the current year, as determined by the department;

(2) Community college taxes means property taxes levied on real property in this state by a community college area, excluding the following:

(a) Any property taxes levied for bonded indebtedness;

(b) Any property taxes levied as a result of an override of limits on property tax levies approved by voters pursuant to section 77-3444; and

(c) Any property taxes that, as of the time of payment, were delinquent for five years or more;

(3) Department means the Department of Revenue;

(4) Eligible taxpayer means any individual, corporation, partnership, limited liability company, trust, estate, or other entity that pays school district taxes or community college taxes during a taxable year; and

(5) School district taxes means property taxes levied on real property in this state by a school district or multiple-district school system, excluding the following:

- (a) Any property taxes levied for bonded indebtedness;
- (b) Any property taxes levied as a result of an override of limits on property tax levies approved by voters pursuant to section 77-3444; and
- (c) Any property taxes that, as of the time of payment, were delinquent for five years or more.

Source: Laws 2020, LB1107, § 112; Laws 2022, LB873, § 5; Laws 2023, LB243, § 17; Laws 2023, LB727, § 98.

Operative date September 2, 2023.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB243, section 17, with LB727, section 98, to reflect all amendments.

77-6703 Tax credit for school district taxes paid.

(1) For taxable years beginning or deemed to begin on or after January 1, 2020, under the Internal Revenue Code of 1986, as amended, there shall be allowed to each eligible taxpayer a refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 or against the franchise tax imposed by sections 77-3801 to 77-3807. The credit shall be equal to the credit percentage for the taxable year, as set by the department under subsection (2) of this section, multiplied by the amount of school district taxes paid by the eligible taxpayer during such taxable year.

(2)(a) For taxable years beginning or deemed to begin during calendar year 2020, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be one hundred twenty-five million dollars;

(b) For taxable years beginning or deemed to begin during calendar year 2021, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be one hundred twenty-five million dollars plus either (i) the amount calculated for such calendar year under subdivision (3)(b)(ii)(B) of section 77-4602 or (ii) the amount calculated for such calendar year under subdivision (3)(c)(ii)(B) of section 77-4602, whichever is applicable;

(c) For taxable years beginning or deemed to begin during calendar year 2022, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be five hundred forty-eight million dollars;

(d) For taxable years beginning or deemed to begin during calendar year 2023, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be five hundred sixty million seven hundred thousand dollars;

(e) For taxable years beginning or deemed to begin during calendar year 2024 through calendar year 2028, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be the maximum amount of credits allowed in the prior year increased by the allowable growth percentage;

(f) For taxable years beginning or deemed to begin during calendar year 2029, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be the maximum amount of credits allowed in the prior year increased by the allowable growth percentage plus an additional seventy-five million dollars; and

(g) For taxable years beginning or deemed to begin during calendar year 2030 and each calendar year thereafter, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be the maximum amount of credits allowed in the prior year increased by the allowable growth percentage.

(3) If the school district taxes are paid by a corporation having an election in effect under subchapter S of the Internal Revenue Code, a partnership, a limited liability company, a trust, or an estate, the amount of school district taxes paid during the taxable year may be allocated to the shareholders, partners, members, or beneficiaries in the same proportion that income is distributed for taxable years beginning or deemed to begin before January 1, 2021, under the Internal Revenue Code of 1986, as amended. The department shall provide forms and schedules necessary for verifying eligibility for the credit provided in this section and for allocating the school district taxes paid. For taxable years beginning or deemed to begin on or after January 1, 2021, under the Internal Revenue Code of 1986, as amended, the refundable credit shall be claimed by the corporation having an election in effect under subchapter S of the Internal Revenue Code, the partnership, the limited liability company, the trust, or the estate that paid the school district taxes.

(4) For any fiscal year or short year taxpayer, the credit may be claimed in the first taxable year that begins following the calendar year for which the credit percentage was determined. The credit shall be taken for the school district taxes paid by the taxpayer during the immediately preceding calendar year.

(5) For the first taxable year beginning or deemed to begin on or after January 1, 2021, and before January 1, 2022, under the Internal Revenue Code of 1986, as amended, for a corporation having an election in effect under subchapter S of the Internal Revenue Code, a partnership, a limited liability company, a trust, or an estate that paid school district taxes in calendar year 2020 but did not claim the credit directly or allocate such school district taxes to the shareholders, partners, members, or beneficiaries as permitted under subsection (3) of this section, there shall be allowed an additional refundable credit. This credit shall be equal to six percent, multiplied by the amount of school district taxes paid during 2020 by the eligible taxpayer.

Source: Laws 2020, LB1107, § 113; Laws 2021, LB181, § 1; Laws 2022, LB873, § 6; Laws 2023, LB243, § 18.
Operative date September 2, 2023.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-6706 Tax credit for community college taxes paid.

(1) For taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended, there shall be allowed to each eligible taxpayer a refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 or against the franchise tax imposed by sections 77-3801 to 77-3807.

(2) For taxable years beginning or deemed to begin during calendar year 2022, the credit shall be equal to the credit percentage for the taxable year, as set by the department under this subsection, multiplied by the amount of community college taxes paid by the eligible taxpayer during such taxable year.

The department shall set the credit percentage so that the total amount of credits for such taxable years shall be fifty million dollars.

(3) For taxable years beginning or deemed to begin during calendar year 2023, the credit shall be equal to the credit percentage for the taxable year, as set by the department under this subsection, multiplied by the amount of community college taxes paid by the eligible taxpayer during such taxable year. The department shall set the credit percentage so that the total amount of credits for such taxable years shall be one hundred million dollars.

(4) For taxable years beginning or deemed to begin on or after January 1, 2024, the credit shall be equal to one hundred percent of the community college taxes paid by the eligible taxpayer during the taxable year.

(5) If the community college taxes are paid by a corporation having an election in effect under subchapter S of the Internal Revenue Code, a partnership, a limited liability company, a trust, or an estate, the refundable credit shall be claimed by such corporation, partnership, limited liability company, trust, or estate.

(6) For any fiscal year or short year taxpayer, the credit allowed under subsection (2) or (3) of this section may be claimed in the first taxable year that begins following the calendar year for which the credit percentage was determined. The credit shall be taken for the community college taxes paid by the taxpayer during the immediately preceding calendar year.

Source: Laws 2022, LB873, § 7; Laws 2023, LB243, § 19.
Operative date September 2, 2023.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

ARTICLE 68

IMAGINE NEBRASKA ACT

Section

77-6801. Act, how cited.

77-6818. Qualified location, defined.

77-6844. Nebraska-based covered entity under federal law; application; approval; conditions; director; issue agreement, when.

77-6845. Nebraska-based covered entity under federal law; agreement; contents; limitations.

77-6846. Nebraska-based covered entity under federal law; incentives or credits; use.

77-6801 Act, how cited.

Sections 77-6801 to 77-6846 shall be known and may be cited as the ImagiNE Nebraska Act.

Source: Laws 2020, LB1107, § 1; Laws 2023, LB92, § 81.
Operative date June 7, 2023.

77-6818 Qualified location, defined.

(1) Qualified location means a location at which the majority of the business activities conducted are within one or more of the following NAICS codes or the following descriptions:

(a) Manufacturing - 31, 32, or 33, including pre-production services;

- (b) Testing Laboratories - 541380;
 - (c) Rail Transportation - 482;
 - (d) Truck Transportation - 484;
 - (e) Insurance Carriers - 5241;
 - (f) Wired Telecommunications Carriers - 517311;
 - (g) Wireless Telecommunications Carriers (except Satellite) - 517312;
 - (h) Telemarketing Bureaus and Other Contact Centers - 561422;
 - (i) Data Processing, Hosting, and Related Services - 518210;
 - (j) Computer Facilities Management Services - 541513;
 - (k) Warehousing and Storage - 4931;
 - (l) The administrative management of the taxpayer's activities, including headquarter facilities relating to such activities, or the administrative management of any of the activities of any business entity or entities in which the taxpayer or a group of its owners hold any direct or indirect ownership interest of at least ten percent, including headquarter facilities relating to such activities;
 - (m) Logistics Facilities - Portions of NAICS 488210, 488310, and 488490 dealing with independently operated trucking terminals, independently operated railroad and railway terminals, and waterfront terminal and port facility operations;
 - (n) Services provided on aircraft brought into this state by an individual who is a resident of another state or any other person who has a business location in another state when the aircraft is not to be registered or based in this state and will not remain in this state more than ten days after the service is completed;
 - (o) The conducting of research, development, or testing, or any combination thereof, for scientific, agricultural, animal husbandry, food product, industrial, or technology purposes;
 - (p) The production of electricity by using one or more sources of renewable energy to produce electricity for sale. For purposes of this subdivision, sources of renewable energy includes, but is not limited to, wind, solar, energy storage, geothermal, hydroelectric, biomass, nuclear, and transmutation of elements;
 - (q) Computer Systems Design and Related Services - 5415;
 - (r) The performance of financial services. For purposes of this subdivision, financial services includes only financial services provided by any financial institution subject to tax under Chapter 77, article 38, or any person or entity licensed by the Department of Banking and Finance or the federal Securities and Exchange Commission;
 - (s) Postharvest Crop Activities (except Cotton Ginning) - 115114;
 - (t) The processing of tangible personal property. For purposes of this subdivision, processing means to subject to a particular method, system, or technique of preparation, handling, or other treatment designed to prepare tangible personal property for market, manufacture, or other commercial use which does not result in the transformation of such property into a substantially different character; or
 - (u) Waste Treatment and Disposal - 5622.
- (2)(a) Qualified location also includes any other business location if at least seventy-five percent of the revenue derived at the location is from sales to

customers who are not related persons which are delivered or provided from the qualified location to a location that is not within Nebraska according to the sourcing rules in subsections (2) and (3) of section 77-2734.14. Intermediate sales to related persons are included as sales to customers delivered or provided to a location outside Nebraska if the related person delivers or provides the goods or services to a location outside Nebraska. Even if a location meets the seventy-five percent requirement of this subdivision, such location shall not constitute a qualified location under this subdivision if the majority of the business activities conducted at such location are within any of the following NAICS codes or any combination thereof:

(i) Agriculture, Forestry, Fishing and Hunting - 11, excluding NAICS code 115114;

(ii) Transportation and Warehousing - 48-49;

(iii) Information - 51;

(iv) Utilities - 22;

(v) Mining, Quarrying, and Oil and Gas Extraction - 21;

(vi) Public Administration - 92; or

(vii) Construction - 23.

(b) The director may adopt and promulgate rules and regulations establishing an alternative method in circumstances in which subdivision (2)(a) of this section does not accurately reflect the out-of-state sales taking place at locations within Nebraska for a particular industry.

(3) The determination of the majority of the business activities shall be made based on the number of employees working in the respective business activities. The director may adopt and promulgate rules and regulations establishing an alternative method in circumstances in which other factors provide a better reflection of business activities.

(4) The delineation of the types of business activities which enable a location to constitute a qualified location is based on the state's intention to attract certain types of business activities and to responsibly accomplish the purposes of the ImagiNE Nebraska Act by directing the state's incentive capabilities towards business activities which, due to their national nature, could locate outside of Nebraska and which therefore would, through the use of incentives, be motivated to locate in Nebraska. By listing specific types of business activities in subsection (1) of this section, the state has determined such business activities by their nature meet these objectives. By specifying the national nature of a taxpayer's revenue in subsection (2) of this section, the state has determined that certain other types of business activities can meet these objectives.

Source: Laws 2020, LB1107, § 18; Laws 2021, LB18, § 2; Laws 2021, LB84, § 2; Laws 2023, LB727, § 99.
Operative date June 7, 2023.

77-6844 Nebraska-based covered entity under federal law; application; approval; conditions; director; issue agreement, when.

(1) It is the intent of the Legislature that an application made by a taxpayer that is a Nebraska-based covered entity as defined in 15 U.S.C. 4651 under the 2023 Supplement

Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act, Public Law 116-283, be approved upon receipt if:

(a) The taxpayer's application contains the items listed in subsection (2) of section 77-6827; and

(b) The taxpayer's application meets the federal eligibility requirements of the Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act, Public Law 116-283.

(2) Not more than thirty days after receipt and approval of an application under subsection (1) of this section, the director shall issue to such taxpayer a written agreement conforming to the requirements of sections 77-6828, 77-6845, and 77-6846.

Source: Laws 2023, LB92, § 82.

Operative date June 7, 2023.

77-6845 Nebraska-based covered entity under federal law; agreement; contents; limitations.

(1) An agreement issued pursuant to section 77-6844 shall contain total incentives, refunds, and credits earned through the ImagiNE Nebraska Act sufficient to equal twenty-five percent of the taxpayer's investment in qualified property for the fabrication, assembly, testing, advanced packaging, or production of semiconductors or technologies with extensive microelectronic content. The director shall ensure that such agreement creates no additional obligation upon the General Fund.

(2) With respect to an application or agreement with a taxpayer that is a Nebraska-based covered entity as defined in 15 U.S.C. 4651 under the Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act, Public Law 116-283:

(a) The provisions of section 77-6839 shall not apply, except that the annual credits and incentives redeemed by the taxpayer may be limited to one-fifteenth of the total credits and incentives eligible to be earned during a fifteen-year performance period, as defined by section 77-6816; and

(b) The taxpayer may not carryover earned but unused incentives past the performance period.

Source: Laws 2023, LB92, § 83.

Operative date June 7, 2023.

77-6846 Nebraska-based covered entity under federal law; incentives or credits; use.

A taxpayer that is also a Nebraska-based covered entity as described in 15 U.S.C. 4651 that qualifies under the Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act, Public Law 116-283, may use earned incentives or credits under the ImagiNE Nebraska Act:

(1) To obtain a refund from the state equal to the amount that the taxpayer demonstrates to the director was paid by the taxpayer after the date of the complete application to repay the principal or interest on revenue bonds issued by an inland port authority pursuant to section 13-3308;

(2) To provide financial assistance to public and private sector initiatives that are intended to improve Nebraska's ability to attract microelectronic-based

enterprises, especially those incentivized under the Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act, Public Law 116-283, by making necessary investments in the semiconductor industry and technologies with extensive microelectronic content, including, but not limited to, grants for the establishment of private sector entities for such purposes within eligible economically disadvantaged areas in Nebraska, as set forth in section 9902(a)(2)(B) of the Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act, Public Law 116-283;

(3) To provide financial assistance to a community college located in a city of the metropolitan class working in collaboration with private sector partners and any interested university, college, other community college, and technical school located in this state to support education expansion and curricula development in order to meet the needs of the domestic semiconductor workforce in Nebraska as set forth in section 9902(a)(2)(B) of the Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act, Public Law 116-283; and

(4) For any other eligible use authorized pursuant to the ImagiNE Nebraska Act.

Source: Laws 2023, LB92, § 84.

Operative date June 7, 2023.

ARTICLE 70

MOTOR FUEL TAX CREDITS

(a) NEBRASKA HIGHER BLEND TAX CREDIT ACT

Section

- 77-7002. Terms, defined.
- 77-7003. Tax credit; eligibility; amount; use; application.
- 77-7004. Tax credit; application; approval; limitation; department; duties.
- 77-7007. Limitation on new applications.

(b) NEBRASKA BIODIESEL TAX CREDIT ACT

- 77-7009. Nebraska Biodiesel Tax Credit Act, how cited.
- 77-7010. Terms, defined.
- 77-7011. Tax credit; eligibility; amount; use; application.
- 77-7012. Tax credit; application; approval; limitation; department; duties.
- 77-7013. Tax credit; how claimed; excess; how treated.
- 77-7014. Tax credit; distribution.
- 77-7015. Limitation on new applications.
- 77-7016. Rules and regulations.

(a) NEBRASKA HIGHER BLEND TAX CREDIT ACT

77-7002 Terms, defined.

For purposes of the Nebraska Higher Blend Tax Credit Act:

- (1) Department means the Department of Revenue;
- (2) E-15 means ethanol blended gasoline formulated with a percentage of more than ten percent but no more than fifteen percent by volume of ethanol;
- (3) E-25 means ethanol blended gasoline formulated with a percentage of twenty-five percent by volume of ethanol;
- (4) E-30 means ethanol blended gasoline formulated with a percentage of thirty percent by volume of ethanol;

(5) E-85 means ethanol blended gasoline formulated with a percentage of fifty-one percent to eighty-three percent by volume of ethanol;

(6) 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;

(7) 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;

(8) 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; and

(9) Taxpayer means any natural person or any limited liability company, partnership, private domestic or private foreign corporation, or domestic or foreign nonprofit corporation certified pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

Source: Laws 2022, LB1261, § 2; Laws 2023, LB562, § 20.
Effective date September 2, 2023.

77-7003 Tax credit; eligibility; amount; use; application.

(1) Any taxpayer who is a retail dealer and who sold and dispensed E-15 or higher blend on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site shall be eligible to receive tax credits under the Nebraska Higher Blend Tax Credit Act.

(2)(a) Through calendar year 2023, the tax credit shall be in an amount equal to (i) five cents multiplied by the total number of gallons of E-15 sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site and (ii) eight cents multiplied by the total number of gallons of E-25 or higher blend sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

(b) For calendar year 2024, the tax credit shall be in an amount equal to eight cents multiplied by the total number of gallons of E-15 or higher blend sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

(c) For calendar year 2025, the tax credit shall be in an amount equal to nine cents multiplied by the total number of gallons of E-15 or higher blend sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

(d) For calendar year 2026, the tax credit shall be in an amount equal to eight cents multiplied by the total number of gallons of E-15 or higher blend sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

(e) For calendar year 2027, the tax credit shall be in an amount equal to seven cents multiplied by the total number of gallons of E-15 or higher blend sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

(f) For calendar year 2028, the tax credit shall be in an amount equal to five cents multiplied by the total number of gallons of E-15 or higher blend sold by

the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

(3) The tax credit shall be a refundable credit that may be used against any income tax imposed by the Nebraska Revenue Act of 1967 or any tax imposed pursuant to sections 77-907 to 77-918 or 77-3801 to 77-3807.

(4) Tax credits allowed under this section may be claimed for taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended.

(5) To receive tax credits, a taxpayer shall submit an application to the department on a form prescribed by the department. The application shall include the following information:

(a) The name and address of the taxpayer;

(b) The total number of gallons of E-15 sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site;

(c) The total number of gallons of E-25 sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site;

(d) The total number of gallons of E-30 sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site;

(e) The total number of gallons of E-85 sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site; and

(f) Any other documentation required by the department.

Source: Laws 2022, LB1261, § 3; Laws 2023, LB562, § 21.
Effective date September 2, 2023.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-7004 Tax credit; application; approval; limitation; department; duties.

(1) If the department determines that an application is complete and that the taxpayer qualifies for tax credits, the department shall approve the application within the limits set forth in this section and shall certify the amount of tax credits approved to the taxpayer.

(2) The department shall consider applications in the order in which they are received and may approve tax credits until the annual limit for the calendar year has been reached. For calendar year 2022, the annual limit on tax credits shall be two million dollars. For calendar year 2023, the annual limit on tax credits shall be calculated by taking the annual limit from the prior calendar year and then multiplying such amount by (a) two hundred percent if the amount of tax credits approved in the prior calendar year exceeded ninety percent of the annual limit applicable to that calendar year or (b) one hundred percent if the amount of tax credits approved in the prior calendar year did not exceed ninety percent of the annual limit applicable to that calendar year. For

calendar years 2024 through 2028, the annual limit on tax credits shall be five million dollars.

Source: Laws 2022, LB1261, § 4; Laws 2023, LB562, § 22.
Effective date September 2, 2023.

77-7007 Limitation on new applications.

There shall be no new applications filed under the Nebraska Higher Blend Tax Credit Act after December 31, 2028. All applications and all tax credits pending or approved before such date shall continue in full force and effect.

Source: Laws 2022, LB1261, § 7; Laws 2023, LB562, § 23.
Effective date September 2, 2023.

(b) NEBRASKA BIODIESEL TAX CREDIT ACT

77-7009 Nebraska Biodiesel Tax Credit Act, how cited.

Sections 77-7009 to 77-7016 shall be known and may be cited as the Nebraska Biodiesel Tax Credit Act.

Source: Laws 2023, LB727, § 1.
Operative date September 2, 2023.

77-7010 Terms, defined.

For purposes of the Nebraska Biodiesel Tax Credit Act:

(1) Biodiesel means 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 with less than one percent blended with diesel fuel;

(2) Department means the Department of Revenue;

(3) 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;

(4) 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;

(5) 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, including a permanent or mobile location; and

(6) Taxpayer means any natural person or any limited liability company, partnership, private domestic or private foreign corporation, or domestic or foreign nonprofit corporation certified pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

Source: Laws 2023, LB727, § 2.
Operative date September 2, 2023.

77-7011 Tax credit; eligibility; amount; use; application.

(1) Any taxpayer who is a retail dealer and who sold and dispensed biodiesel on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site shall be eligible to receive tax credits under the Nebraska Biodiesel Tax Credit Act.

(2) The tax credit shall be in an amount equal to fourteen cents multiplied by the total number of gallons of biodiesel sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

(3) The tax credit shall be a refundable credit that may be used against the income tax imposed by the Nebraska Revenue Act of 1967.

(4) Tax credits allowed under this section may be claimed for taxable years beginning or deemed to begin on or after January 1, 2024, under the Internal Revenue Code of 1986, as amended.

(5) To receive tax credits, a taxpayer shall submit an application to the department on a form prescribed by the department. Applications may be submitted from January 1 to April 15 of each calendar year beginning in 2024. The application shall include the following information:

(a) The name and address of the taxpayer;

(b) The total number of gallons of biodiesel sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site; and

(c) Any other documentation required by the department.

Source: Laws 2023, LB727, § 3.

Operative date September 2, 2023.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-7012 Tax credit; application; approval; limitation; department; duties.

(1) If the department determines that an application is complete and that the taxpayer qualifies for tax credits, the department shall approve the application within the limits set forth in this section and shall certify the amount of tax credits approved to the taxpayer.

(2) The department may approve up to one million dollars in tax credits in any calendar year. If the total amount of tax credits requested in any calendar year exceeds such limit, the department shall allocate the tax credits proportionally based upon amounts requested.

Source: Laws 2023, LB727, § 4.

Operative date September 2, 2023.

77-7013 Tax credit; how claimed; excess; how treated.

(1) A taxpayer shall claim the tax credit by attaching the tax credit certification received from the department under section 77-7012 to the taxpayer's tax return.

(2) Any credit in excess of the taxpayer's tax liability shall be refunded to the taxpayer. In lieu of claiming a refund, the taxpayer may elect to have the excess carried forward to subsequent taxable years. A taxpayer may carry forward the excess tax credits until fully utilized.

Source: Laws 2023, LB727, § 5.

Operative date September 2, 2023.

77-7014 Tax credit; distribution.

Any tax credit allowable to a partnership, a limited liability company, a subchapter S corporation, a cooperative corporation, or an estate or trust may be distributed to the partners, limited liability company members, shareholders, cooperative members, or beneficiaries in the same manner as income is distributed.

Source: Laws 2023, LB727, § 6.
Operative date September 2, 2023.

77-7015 Limitation on new applications.

There shall be no new applications filed under the Nebraska Biodiesel Tax Credit Act after December 31, 2028. All applications and all tax credits pending or approved before such date shall continue in full force and effect.

Source: Laws 2023, LB727, § 7.
Operative date September 2, 2023.

77-7016 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Nebraska Biodiesel Tax Credit Act.

Source: Laws 2023, LB727, § 8.
Operative date September 2, 2023.

ARTICLE 71

OPPORTUNITY SCHOLARSHIPS ACT

Section

- 77-7101. Act, how cited.
- 77-7102. Legislative findings.
- 77-7103. Terms, defined.
- 77-7104. Scholarship-granting organization; certification; application; procedure.
- 77-7105. Income tax credits; individual taxpayer; joint return; amounts.
- 77-7106. Income tax credits; partnership, limited liability company, or subchapter S corporation; amounts.
- 77-7107. Income tax credits; estate or trust; amounts.
- 77-7108. Income tax credits; corporate taxpayer; amounts.
- 77-7109. Tax credit; contributions; procedure; annual limit.
- 77-7110. Scholarship-granting organization; certification; requirements.
- 77-7111. Scholarship-granting organization; audited financial information report; summary descriptions; submission; department; report.
- 77-7112. Act; how construed.
- 77-7113. Rules and regulations.

77-7101 Act, how cited.

Sections 77-7101 to 77-7113 shall be known and may be cited as the Opportunity Scholarships Act.

Source: Laws 2023, LB753, § 1.
Operative date January 1, 2024.

77-7102 Legislative findings.

The Legislature finds that:

- (1) Enabling the greatest number of parents and legal guardians to choose among quality educational opportunities for children will improve the quality of education available to all children;

(2) Privately operated elementary and secondary schools in Nebraska satisfy the state's requirements for legal operation and provide quality educational opportunities for children;

(3) Parents and legal guardians of limited means are less able to choose among quality educational opportunities for their children;

(4) Making it possible for more parents and legal guardians to be able to choose privately operated schools benefits Nebraska parents and taxpayers; and

(5) It is in the best interests of the State of Nebraska and its citizens to encourage individuals and businesses to support organizations that financially assist parents and legal guardians who want to enroll their children in privately operated elementary and secondary schools, and such encouragement can be accomplished through the use of tax credits.

Source: Laws 2023, LB753, § 2.

Operative date January 1, 2024.

77-7103 Terms, defined.

For purposes of the Opportunity Scholarships Act:

(1) Department means the Department of Revenue;

(2) Education scholarship means a financial grant-in-aid to be used to pay all or part of the tuition and fees for attending a qualified school and includes any tuition grants;

(3) Eligible student means a resident of Nebraska who:

(a) Is receiving an education scholarship for the first time and is (i) entering kindergarten or ninth grade in a qualified school or (ii) transferring from a public school at which the student was enrolled for at least one semester immediately preceding the first semester for which the student receives an education scholarship to a qualified school and is entering any of grades kindergarten through twelve;

(b) Has previously received an education scholarship and is continuing education at a qualified school until such student graduates from high school or reaches twenty-one years of age, whichever comes first; or

(c) Is the sibling of a student who is receiving an education scholarship and resides in the same household as such student;

(4) Qualified school means any nongovernmental, privately operated elementary or secondary school located in this state that (a) is operated not for profit, (b) complies with the antidiscrimination provisions of 42 U.S.C. 1981 as such section existed on January 1, 2023, (c) complies with all health and life safety laws or codes that apply to privately operated schools, and (d) fulfills the applicable accreditation or approval requirements established by the State Board of Education pursuant to section 79-318;

(5) Scholarship-granting organization means a charitable organization in this state that is (a) exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and (b) certified pursuant to section 77-7104 to provide tax-credit-supported education scholarships to eligible students to assist them in attending qualified schools; and

(6) Tuition means any amount charged by a qualified school for enrollment in its instructional program. Tuition shall not exceed the full cost of educating an eligible student at such qualified school.

Source: Laws 2023, LB753, § 3.

Operative date January 1, 2024.

77-7104 Scholarship-granting organization; certification; application; procedure.

(1) An organization may apply to the department to become certified as a scholarship-granting organization under the Opportunity Scholarships Act. An organization shall obtain such certification prior to providing any education scholarships to eligible students under the act. The applicant shall provide the department with sufficient information to show:

(a) That the applicant is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

(b) That the applicant will offer one or more education scholarship programs for eligible students;

(c) That the applicant will be able to comply with the requirements of section 77-7110;

(d) That the applicant will provide education scholarships for eligible students without limiting education scholarship availability to only one qualified school;

(e) That the applicant will:

(i) Give first priority to:

(A) Eligible students who received an education scholarship from a scholarship-granting organization during the previous school year; and

(B) The sibling of a student who is receiving an education scholarship, so long as the sibling resides in the same household as such student;

(ii) Give second priority to:

(A) Eligible students whose household income levels do not exceed one hundred percent of the federal poverty level;

(B) Eligible students whose application for the enrollment option program established in section 79-234 has been denied;

(C) Eligible students who have an individualized education plan;

(D) Eligible students who are experiencing bullying, harassment, hazing, assault, battery, kidnapping, robbery, sexual offenses, threat or intimidation, or fighting at school;

(E) Eligible students who are in foster care; and

(F) Eligible students who are in a family with a parent or guardian actively serving in a branch of the armed forces of the United States or in the National Guard, or whose parent or guardian was killed serving in the line of duty;

(iii) Give third priority to eligible students whose household income levels exceed one hundred percent of the federal poverty level but do not exceed one hundred eighty-five percent of the federal poverty level;

(iv) Give fourth priority to eligible students whose household income levels exceed one hundred eighty-five percent of the federal poverty level but do not exceed two hundred thirteen percent of the federal poverty level; and

(v) Give fifth priority to eligible students whose household income levels exceed two hundred thirteen percent of the federal poverty level but do not exceed three hundred percent of the income indicated in the income eligibility guidelines for reduced price meals under the National School Lunch Program in 7 C.F.R. part 210;

(f) That the applicant will limit the maximum scholarship amount awarded to any student to the cost of tuition and fees at the qualified school such student attends; and

(g) That the applicant will limit scholarship amounts awarded to students in a manner that assures that the average of the scholarship amounts awarded per student does not exceed seventy-five percent of the statewide average general fund operating expenditures per formula student for the most recently available complete data year as such terms are defined in section 79-1003.

(2) If the applicant meets the requirements of this section, the department shall certify it as a scholarship-granting organization for tax-credit purposes under the Opportunity Scholarships Act. Such certification is subject to revocation by the department if the scholarship-granting organization subsequently fails to fulfill the requirements of this section or section 77-7110.

Source: Laws 2023, LB753, § 4.

Operative date January 1, 2024.

77-7105 Income tax credits; individual taxpayer; joint return; amounts.

(1) An individual taxpayer who makes one or more cash contributions to one or more scholarship-granting organizations during a tax year shall be eligible for a credit against the income tax due under the Nebraska Revenue Act of 1967. Except as otherwise provided in the Opportunity Scholarships Act, the amount of the credit shall be equal to whichever of the following amounts is the lowest: (a) The total amount of such contributions made during the tax year; (b) fifty percent of the income tax liability of such taxpayer for the tax year; or (c) one hundred thousand dollars. A taxpayer may only claim a credit pursuant to this section for the portion of the contribution that was not claimed as a charitable contribution under the Internal Revenue Code.

(2) Taxpayers who are married but file separate returns for a tax year in which they could have filed a joint return may each claim only one-half of the tax credit that would otherwise have been allowed for a joint return.

(3) The tax credit allowed under this section shall be a nonrefundable credit. Any amount of the credit that is unused may be carried forward and applied against the taxpayer's income tax liability for the next five years immediately following the tax year in which the credit is first allowed. The tax credit cannot be carried back.

(4) The taxpayer may not designate all or any part of the contribution to a scholarship-granting organization for the benefit of any eligible student specifically identified by the taxpayer.

(5) The tax credit allowed under this section is subject to section 77-7109.

Source: Laws 2023, LB753, § 5.

Operative date January 1, 2024.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-7106 Income tax credits; partnership, limited liability company, or subchapter S corporation; amounts.

(1) Any partnership, limited liability company, or corporation having an election in effect under subchapter S of the Internal Revenue Code of 1986, as amended, that is carrying on any trade or business for which deductions would be allowed under section 162 of the Internal Revenue Code of 1986, as amended, or is carrying on any rental activity and that makes one or more cash contributions to one or more scholarship-granting organizations during a tax year shall be eligible for a credit against the income tax due under the Nebraska Revenue Act of 1967. Except as otherwise provided in the Opportunity Scholarships Act, the amount of the credit shall be equal to whichever of the following amounts is the lowest: (a) The total amount of such contributions made during the tax year; (b) fifty percent of the income tax liability of such taxpayer for the tax year; or (c) one hundred thousand dollars. A taxpayer may only claim a credit pursuant to this section for the portion of the contribution that was not claimed as a charitable contribution under the Internal Revenue Code. The credit shall be attributed to each partner, member, or shareholder in the same proportion used to report the partnership's, limited liability company's, or subchapter S corporation's income or loss for income tax purposes.

(2) The tax credit allowed under this section shall be a nonrefundable credit. Any amount of the tax credit that is unused may be carried forward and applied against the taxpayer's income tax liability for the next five years immediately following the tax year in which the credit is first allowed. The tax credit cannot be carried back.

(3) The taxpayer may not designate all or any part of the contribution to a scholarship-granting organization for the benefit of any eligible student specifically identified by the taxpayer.

(4) The tax credit allowed under this section is subject to section 77-7109.

Source: Laws 2023, LB753, § 6.

Operative date January 1, 2024.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-7107 Income tax credits; estate or trust; amounts.

(1) An estate or trust which makes one or more cash contributions to one or more scholarship-granting organizations during a tax year shall be eligible for a credit against the income tax due under the Nebraska Revenue Act of 1967. Except as otherwise provided in the Opportunity Scholarships Act, the amount of the credit shall be equal to whichever of the following amounts is the lowest: (a) The total amount of such contributions made during the tax year; (b) fifty percent of the income tax liability of such taxpayer for the tax year; or (c) one million dollars. A taxpayer may only claim a credit pursuant to this section for the portion of the contribution that was not claimed as a charitable contribution under the Internal Revenue Code. Any credit not used by the estate or trust may be attributed to each beneficiary of the estate or trust in the same proportion used to report the beneficiary's income from the estate or trust for income tax purposes.

(2) The tax credit allowed under this section shall be a nonrefundable credit. Any amount of the tax credit that is unused may be carried forward and applied

against the taxpayer's income tax liability for the next five years immediately following the tax year in which the credit is first allowed. The tax credit cannot be carried back.

(3) The taxpayer may not designate all or any part of the contribution to a scholarship-granting organization for the benefit of any eligible student specifically identified by the taxpayer.

(4) The tax credit allowed under this section is subject to section 77-7109.

Source: Laws 2023, LB753, § 7.

Operative date January 1, 2024.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-7108 Income tax credits; corporate taxpayer; amounts.

(1) A corporate taxpayer as defined in section 77-2734.04 which makes one or more cash contributions to one or more scholarship-granting organizations during a tax year shall be eligible for a credit against the income tax due under the Nebraska Revenue Act of 1967. Except as otherwise provided in the Opportunity Scholarships Act, the amount of the credit shall be equal to whichever of the following amounts is the lowest: (a) The total amount of such contributions made during the tax year; (b) fifty percent of the income tax liability of such taxpayer for the tax year; or (c) one hundred thousand dollars. A taxpayer may only claim a credit pursuant to this section for the portion of the contribution that was not claimed as a charitable contribution under the Internal Revenue Code.

(2) The tax credit allowed under this section shall be a nonrefundable credit. Any amount of the tax credit that is unused may be carried forward and applied against the taxpayer's income tax liability for the next five years immediately following the tax year in which the credit is first allowed. The tax credit cannot be carried back.

(3) The taxpayer may not designate all or any part of the contribution to a scholarship-granting organization for the benefit of any eligible student specifically identified by the taxpayer.

(4) The tax credit allowed under this section is subject to section 77-7109.

Source: Laws 2023, LB753, § 8.

Operative date January 1, 2024.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-7109 Tax credit; contributions; procedure; annual limit.

(1) Prior to making a contribution to a scholarship-granting organization, any taxpayer desiring to claim a tax credit under the Opportunity Scholarships Act shall notify the scholarship-granting organization of the taxpayer's intent to make a contribution and the amount to be claimed as a tax credit. Upon receiving each such notification, the scholarship-granting organization shall notify the department of the intended tax credit amount. If the department determines that the intended tax credit amount in the notification would exceed the limit specified in subsection (3) of this section, the department shall notify the scholarship-granting organization of its determination within thirty days

after receipt of the notification. The scholarship-granting organization shall then promptly notify the taxpayer of the department's determination that the intended tax credit amount in the notification is not available. If an amount less than the amount indicated in the notification is available for a tax credit, the department shall notify the scholarship-granting organization of the available amount and the scholarship-granting organization shall notify the taxpayer of the available amount within three business days.

(2) In order to be allowed a tax credit as provided by the act, the taxpayer shall make its contribution between thirty-one and sixty days after notifying the scholarship-granting organization of the taxpayer's intent to make a contribution. If the scholarship-granting organization does not receive the contribution within the required time period, it shall notify the department of such fact and the department shall no longer include such amount when calculating whether the limit prescribed in subsection (3) of this section has been exceeded. If the scholarship-granting organization receives the contribution within the required time period, it shall provide the taxpayer with a receipt for the contribution. The receipt shall show the name and address of the scholarship-granting organization, the date the scholarship-granting organization was certified by the department in accordance with section 77-7104, the name, address, and, if available, tax identification number of the taxpayer making the contribution, the amount of the contribution, and the date the contribution was received.

(3) The department shall consider notifications regarding intended tax credit amounts in the order in which they are received to ascertain whether the intended tax credit amounts are within the annual limit provided in this subsection. The annual limit on the total amount of tax credits for calendar years 2024, 2025, and 2026 shall be twenty-five million dollars. The annual limit on the total amount of tax credits for calendar year 2027 and each calendar year thereafter shall be calculated by taking the annual limit from the prior calendar year and then multiplying such amount by (a) one hundred twenty-five percent if the intended tax credit amounts in the prior calendar year exceeded ninety percent of the annual limit applicable to that calendar year or (b) one hundred percent if the intended tax credit amounts in the prior calendar year did not exceed ninety percent of the annual limit applicable to that calendar year. The annual limit may be increased as provided in this subsection until it reaches one hundred million dollars. Thereafter, no further increases shall be allowed.

(4) The State Department of Education and the Department of Revenue shall publish on their respective websites information identifying the annual limit when it is increased pursuant to subsection (3) of this section.

(5) Once credits have reached the designated annual limit for any calendar year, no additional credits shall be allowed for such calendar year. Credits shall be prorated among the notifications received on the day the annual limit is exceeded.

Source: Laws 2023, LB753, § 9.

Operative date January 1, 2024.

77-7110 Scholarship-granting organization; certification; requirements.

(1) For purposes of this section:

(a) Net revenue means the total amount of revenue received by a scholarship-granting organization during a state fiscal year minus the amount of such

revenue that is used or reserved for the administrative costs of such organization for the same state fiscal year;

(b) Revenue means all grants, donations, and contributions received by a scholarship-granting organization for the purpose of providing education scholarships; and

(c) State fiscal year means the period of time commencing on July 1 and ending on June 30 of the following year.

(2) In order for a scholarship-granting organization to remain certified under the Opportunity Scholarships Act, the scholarship-granting organization shall allocate its revenue as follows:

(a) If the annual limit on tax credits under section 77-7109 is less than thirty-five million dollars, the scholarship-granting organization shall allocate at least ninety percent of its revenue for education scholarships and no more than ten percent of its revenue shall be used or reserved for administrative costs; or

(b) If the annual limit on tax credits under section 77-7109 is thirty-five million dollars or more, the scholarship-granting organization shall allocate at least ninety-five percent of its revenue for education scholarships, and no more than five percent of its revenue shall be used or reserved for administrative costs.

(3) For purposes of subsection (2) of this section, revenue is allocated when it is expended or otherwise irrevocably encumbered for expenditure. The percentage of revenue allocated for education scholarships shall be measured as a monthly average over the most recent twenty-four-month period or, for a scholarship-granting organization that has been certified for less than twenty-four months, over the period of time that the scholarship-granting organization has been certified.

(4) Beginning January 1, 2028:

(a) A scholarship-granting organization shall carry forward no more than twenty-five percent of its net revenue from one state fiscal year to the following state fiscal year. Any amount carried forward shall be expended for annual or partial-year education scholarships in the following state fiscal year; and

(b) Any amount of net revenue remaining on June 30 of any state fiscal year that is in excess of the amount that may be carried forward under subdivision (a) of this subsection shall be used to provide education scholarships to eligible students or transferred to one or more other scholarship-granting organizations to provide education scholarships to eligible students by no later than the following September 30. Any amount of such net revenue that is not used or transferred by the following September 30 shall be remitted to the State Treasurer for credit to the General Fund. Any scholarship-granting organization receiving a transfer pursuant to this subdivision shall place the transferred funds into its scholarship account and shall separately disclose the transfer in its annual financial audit.

Source: Laws 2023, LB753, § 10.

Operative date January 1, 2024.

77-7111 Scholarship-granting organization; audited financial information report; summary descriptions; submission; department; report.

(1) Each scholarship-granting organization shall annually submit to the department no later than December 1 of each year an audited financial

information report for its most recent fiscal year certified by an independent public accountant.

(2) Each scholarship-granting organization shall include with the report submitted under subsection (1) of this section a summary description of (a) its policies and procedures for awarding education scholarships, (b) the number of eligible students receiving education scholarships in the most recent fiscal year, (c) the total amount of contributions received for education scholarships in the most recent fiscal year, and (d) the total amount of education scholarships awarded in the most recent fiscal year.

(3) The department shall electronically forward such reports and summary descriptions to the Governor and the Legislature no later than December 31 of each year.

(4) By June 30, 2027, and by June 30 of each odd-numbered year thereafter, the department shall electronically submit a report to the chairperson of the Appropriations Committee of the Legislature, the chairperson of the Education Committee of the Legislature, and the chairperson of the Revenue Committee of the Legislature. The report shall include, but not be limited to, the following:

- (a) A review of the progress of the Opportunity Scholarships Act;
- (b) The number of students currently wait-listed or denied from receiving an education scholarship and the reason for the wait-listing or denial;
- (c) The dollar amount of education scholarships given by scholarship-granting organizations; and
- (d) The demographic information of students receiving education scholarships, including, but not limited to:
 - (i) Income level;
 - (ii) Grade level; and
 - (iii) Geographic location.

Source: Laws 2023, LB753, § 11.
Operative date January 1, 2024.

77-7112 Act; how construed.

The Opportunity Scholarships Act shall not be construed as granting any expanded or additional authority to the State of Nebraska to control or influence the governance or policies of any qualified school due to the fact that the qualified school admits and enrolls students who receive education scholarships or as requiring any such qualified school to admit or, once admitted, to continue the enrollment of any student receiving an education scholarship.

Source: Laws 2023, LB753, § 12.
Operative date January 1, 2024.

77-7113 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Opportunity Scholarships Act.

Source: Laws 2023, LB753, § 13.
Operative date January 1, 2024.

ARTICLE 72

CHILD CARE TAX CREDIT ACT

Section

- 77-7201. Act, how cited.
77-7202. Terms, defined.
77-7203. Parent or legal guardian; tax credit; eligibility; amount; application; approval, conditions.
77-7204. Taxpayer; qualifying contribution; tax credit; amount; eligibility; application; approval, conditions.
77-7205. Rules and regulations.

77-7201 Act, how cited.

Sections 77-7201 to 77-7205 shall be known and may be cited as the Child Care Tax Credit Act.

Source: Laws 2023, LB754, § 1.
Effective date June 1, 2023.

77-7202 Terms, defined.

For purposes of the Child Care Tax Credit Act:

- (1) Child means an individual who is five years of age or less;
- (2) Department means the Department of Revenue;
- (3) Eligible program means a program that is licensed as a family child care home I, family child care home II, child care center, or preschool and operates as a for-profit child care business or is a nonprofit organization under the Internal Revenue Code of 1986, as amended;
- (4) Intermediary means any organization that distributes funds for the purpose of supporting an eligible program;
- (5) Parent or legal guardian means an individual who claims a child as a dependent for federal income tax purposes;
- (6) Qualifying contribution means a contribution in the form of cash, check, cash equivalent, agricultural commodity, livestock, or publicly traded security that is made:
 - (a) For the establishment or operation of an eligible program;
 - (b) For the establishment of a grant or loan program for parents requiring financial assistance for an eligible program;
 - (c) To an early childhood collaborative or another intermediary to provide training, technical assistance, or mentorship to child care providers;
 - (d) For the establishment or ongoing costs of an information dissemination program that assists parents with information and referral services for child care;
 - (e) To a for-profit child care business, including family home providers. The for-profit child care business must use the proceeds of a qualifying contribution for (i) the acquisition or improvement of child care facilities, (ii) the acquisition of equipment, (iii) providing services, or (iv) employee retention; or
 - (f) To an intermediary for the establishment or operation of an eligible program or for the establishment of a grant or loan program for parents requiring financial assistance for an eligible program;

(7) Taxpayer means any person subject to the income tax imposed by the Nebraska Revenue Act of 1967. The term includes resident and nonresident individuals, estates, trusts, and corporations; and

(8) Total household income means federal modified adjusted gross income.

Source: Laws 2023, LB754, § 2.

Effective date June 1, 2023.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-7203 Parent or legal guardian; tax credit; eligibility; amount; application; approval, conditions.

(1) For taxable years beginning or deemed to begin on or after January 1, 2024, under the Internal Revenue Code of 1986, as amended, a parent or legal guardian shall be eligible to receive a credit against the income tax imposed by the Nebraska Revenue Act of 1967 if:

(a) The parent's or legal guardian's child is enrolled in a child care program licensed pursuant to the Child Care Licensing Act;

(b) The parent's or legal guardian's child receives care from an approved license-exempt provider enrolled in the child care subsidy program pursuant to sections 68-1202 and 68-1206; or

(c) The parent's or legal guardian's total household income is less than or equal to one hundred percent of the federal poverty level.

(2) The credit provided in this section shall be a refundable tax credit equal to:

(a) Two thousand dollars per child if the parent's or legal guardian's total household income is no more than seventy-five thousand dollars; or

(b) One thousand dollars per child if the parent's or legal guardian's total household income is more than seventy-five thousand dollars but no more than one hundred fifty thousand dollars.

(3) A parent or legal guardian shall not be eligible for a credit under this section if the parent's or legal guardian's total household income is more than one hundred fifty thousand dollars.

(4) A parent or legal guardian shall apply for the credit provided in this section by submitting an application to the department with the following information:

(a) The number of children for which the parent or legal guardian is claiming a credit;

(b) Documentation of the parent's or legal guardian's total household income; and

(c) Any other documentation required by the department.

(5) Subject to subsection (6) of this section, if the department determines that the parent or legal guardian qualifies for tax credits under this section, the department shall approve the application and certify the amount of credits approved to the parent or legal guardian.

(6) The department shall consider applications in the order in which they are received and may approve tax credits under this section each year until the total amount of credits approved for the year equals fifteen million dollars.

Source: Laws 2023, LB754, § 3.

Effective date June 1, 2023.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-7204 Taxpayer; qualifying contribution; tax credit; amount; eligibility; application; approval, conditions.

(1) For taxable years beginning or deemed to begin on or after January 1, 2024, under the Internal Revenue Code of 1986, as amended, any taxpayer who makes a qualifying contribution during the taxable year shall be eligible to receive a credit against the income tax imposed by the Nebraska Revenue Act of 1967.

(2) The credit provided in this section shall be a nonrefundable credit equal to either one hundred percent or seventy-five percent of the taxpayer's qualifying contribution made during the taxable year, except that the credit for a taxpayer shall not exceed one hundred thousand dollars for any single taxable year.

(3) The credit shall be equal to one hundred percent of the qualifying contribution if:

(a) The eligible program that receives the contribution has a physical presence in an opportunity zone in this state designated pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97; or

(b) The eligible program that receives the contribution has at least one child enrolled in the child care subsidy program established pursuant to sections 68-1202 and 68-1206 and the child care provider is actively caring and billing for the child as verified by the Department of Health and Human Services. Attracting child care providers into the child care subsidy program and retaining providers in the program are directly connected to the administration of the program. Verifying that the child care provider is actively caring and billing for an eligible child is in furtherance of the child care subsidy program. The Department of Revenue shall not use any verification information obtained from the Department of Health and Human Services except for purposes directly connected with the administration of the Child Care Tax Credit Act.

(4) The credit shall be equal to seventy-five percent of the qualifying contribution if subsection (3) of this section does not apply.

(5) A taxpayer shall not be eligible for the credit provided in this section if the taxpayer claimed a charitable contribution deduction for the qualifying contribution on the taxpayer's federal income tax return.

(6) A taxpayer shall apply for the credit provided in this section by submitting an application to the department with the following information:

(a) Documentation to show that the contribution is a qualifying contribution; and

(b) Any other documentation required by the department.

(7) Subject to subsection (8) of this section, if the department determines that the taxpayer qualifies for tax credits under this section, the department shall

approve the application and certify the amount of credits approved to the taxpayer.

(8) The department shall consider applications in the order in which they are received and may approve tax credits under this section each year until the total amount of credits approved for the year equals two million five hundred thousand dollars.

(9) If a taxpayer's credit under this section exceeds the total tax due, the taxpayer may carry forward the excess credit for up to five taxable years after the taxable year in which the credit was first allowed, but the taxpayer must use the carryover credit in the earliest taxable year possible.

(10) A contribution shall not qualify for a credit under this section if the contribution is made to a child care provider in which the taxpayer or a person related to the taxpayer has a financial interest, unless the contribution is part of a bona fide arm's length transaction.

Source: Laws 2023, LB754, § 4.
Effective date June 1, 2023.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-7205 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Child Care Tax Credit Act.

Source: Laws 2023, LB754, § 5.
Effective date June 1, 2023.

SCHOOLS

CHAPTER 79 SCHOOLS

Article.

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Cross References

Lottery Funds used for education, see section 79-3501.

ARTICLE 1

DEFINITIONS AND CLASSIFICATIONS

Section

79-101. Terms, defined.

79-101 Terms, defined.

For purposes of Chapter 79:

- (1) School district means the territory under the jurisdiction of a single school board authorized by Chapter 79;
- (2) School means a school under the jurisdiction of a school board authorized by Chapter 79;
- (3) Legal voter means a registered voter as defined in section 32-115 who is domiciled in a precinct or ward in which he or she is registered to vote and which precinct or ward lies in whole or in part within the boundaries of a school district for which the registered voter chooses to exercise his or her right to vote at a school district election;
- (4) Prekindergarten programs means all early childhood programs provided for children who have not reached the age of five by the date provided in section 79-214 for kindergarten entrance;
- (5) Elementary grades means grades kindergarten through eight, inclusive;
- (6) High school grades means all grades above the eighth grade;
- (7) School year means (a) for elementary grades other than kindergarten, the time equivalent to at least one thousand thirty-two instructional hours and (b) for high school grades, the time equivalent to at least one thousand eighty instructional hours;
- (8) Instructional hour means a period of time, at least sixty minutes, which is actually used for the instruction of students;
- (9) Teacher means any certified employee who is regularly employed for the instruction of pupils in the public schools;
- (10) Administrator means any certified employee such as superintendent, assistant superintendent, principal, assistant principal, school nurse, or other supervisory or administrative personnel who do not have as a primary duty the instruction of pupils in the public schools;
- (11) School board means the governing body of any school district. Board of education has the same meaning as school board;
- (12) Teach means and includes, but is not limited to, the following responsibilities: (a) The organization and management of the classroom or the physical area in which the learning experiences of pupils take place; (b) the assessment and diagnosis of the individual educational needs of the pupils; (c) the planning, selecting, organizing, prescribing, and directing of the learning experiences of pupils; (d) the planning of teaching strategies and the selection of

available materials and equipment to be used; and (e) the evaluation and reporting of student progress;

(13) Permanent school fund means the fund described in section 79-1035.01;

(14) Temporary school fund means the fund described in section 79-1035.02;

(15) School lands means the lands described in section 79-1035.03. Educational lands has the same meaning as school lands;

(16) Community eligibility provision means the alternative to household applications for free and reduced-price meals in high-poverty schools enacted in section 104(a) of the federal Healthy, Hunger-Free Kids Act of 2010, section 11(a)(1) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1759a(a)(1), as such act and section existed on January 1, 2015, and administered by the United States Department of Agriculture; and

(17)(a) Certificate, certificated, or certified, when referring to an individual holding a certificate to teach, administer, or provide special services, also includes an individual who holds a permit issued by the Commissioner of Education pursuant to sections 79-806 to 79-815 or an alternative certificate to teach issued pursuant to section 79-8,145.01.

(b) Certificate, certificated, or certified, when referring to an individual holding a certificate to teach, also includes an individual who is granted a certificate in accordance with the Interstate Teacher Mobility Compact and section 79-816.01.

The State Board of Education may adopt and promulgate rules and regulations to define school day and other appropriate units of the school calendar.

Source: Laws 1881, c. 78, subdivision I, § 1, p. 331; R.S.1913, § 6700; C.S.1922, § 6238; C.S.1929, § 79-101; R.S.1943, § 79-101; Laws 1949, c. 256, § 1, p. 690; Laws 1971, LB 802, § 1; Laws 1984, LB 994, § 3; Laws 1988, LB 1197, § 1; Laws 1993, LB 348, § 5; R.S.1943, (1994), § 79-101; Laws 1996, LB 900, § 1; Laws 1997, LB 345, § 5; Laws 1999, LB 813, § 5; Laws 2003, LB 67, § 2; Laws 2010, LB1006, § 1; Laws 2015, LB525, § 2; Laws 2018, LB377, § 9; Laws 2023, LB298, § 5; Laws 2023, LB705, § 54.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB298, section 5, with LB705, section 54, to reflect all amendments.

Note: Changes made by LB298 became effective September 2, 2023. Changes made by LB705 became operative September 2, 2023.

Cross References

Interstate Teacher Mobility Compact, see section 79-1505.

ARTICLE 2

PROVISIONS RELATING TO STUDENTS

(e) ENROLLMENT OPTION PROGRAM

- Section 79-238. Application acceptance and rejection; specific capacity standards; request for release; standards and conditions.
- 79-239. Application; request for release; rejection; notice; appeal; school district; State Department of Education; duties.
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- 79-262.01. Behavioral intervention, behavioral management, classroom management, and removal of a student from a classroom in school; model policy; school district policy; training.
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- 79-283. Hearing; final disposition; written notice; effect; period of expulsion; review; when; procedure; readmittance.
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(h) STUDENT AND YOUTH ORGANIZATIONS

- 79-297. Youth organization; provide information, services, and activities; conditions.
- 79-2,103. Repealed. Laws 2023, LB705, § 136.

(n) PART-TIME ENROLLMENT

- 79-2,136. Part-time enrollment; extracurricular activities; school board; duties; section, how construed.

(q) STATE SCHOOL SECURITY DIRECTOR

- 79-2,144. State school security director; duties.
- 79-2,146. Behavioral and mental health training; suicide awareness and prevention training; requirements.

(w) DRESS CODE AND GROOMING POLICY

- 79-2,158. Dress code and grooming policy; school board; adopt; enforcement; requirements.
- 79-2,159. Model dress code and grooming policy; department; duties; health and safety standard; requirements.

(e) ENROLLMENT OPTION PROGRAM

79-238 Application acceptance and rejection; specific capacity standards; request for release; standards and conditions.

(1)(a) Except as provided in this section and sections 79-235.01 and 79-240, the school board of the option school district shall adopt by resolution specific capacity standards for acceptance and rejection of applications.

(b) Capacity for special education services operated by an option school district shall be determined on a case-by-case basis. If an application for option enrollment received by a school district indicates that the student has an individualized education program under the federal Individuals with Disabilities

ties Education Act, 20 U.S.C. 1400 et seq., or has been diagnosed with a disability as defined in section 79-1118.01, such application shall be evaluated by the director of special education services of the school district or the director's designee who shall determine if the school district and the appropriate class, grade level, or school building in such school district has the capacity to provide the applicant the appropriate services and accommodations.

(c) For all other students, standards may include the capacity of a program, class, grade level, or school building. Capacity shall be determined by setting a maximum number of option students that a district will accept in any program, class, grade level, or school building, based upon available staff, facilities, projected enrollment of resident students, and projected number of students with which the option school district will contract based on existing contractual arrangements.

(d) To facilitate option enrollment, school districts shall annually establish, publish, and report the capacity for each school building under such district's control pursuant to procedures, criteria, and deadlines established by the State Department of Education. Except as otherwise provided in this section, a school board may by resolution, prior to October 15 of each school year, declare a program, a class, or a school unavailable to option students for the next school year due to lack of capacity. Standards shall not include previous academic achievement, athletic or other extracurricular ability, disabilities, proficiency in the English language, or previous disciplinary proceedings except as provided in section 79-266.01. False or substantively misleading information submitted by a parent or guardian on an application to an option school district may be cause for the option school district to reject a previously accepted application if the rejection occurs prior to the student's attendance as an option student.

(2) The school board of every school district shall also adopt specific standards and conditions for acceptance or rejection of a request for release of a resident or option student submitting an application to an option school district after March 15 under subsection (1) of section 79-237. Standards shall not include that a request occurred after the deadline set forth in this subsection.

(3) Any option school district that is not a member of a learning community shall give first priority for enrollment to siblings of option students, except that the option school district shall not be required to accept the sibling of an option student if the district is at capacity except as provided in subsection (1) of section 79-240.

(4) Any option school district that is in a learning community shall give first priority for enrollment to siblings of option students enrolled in the option school district, second priority for enrollment to students who have previously been enrolled in the option school district as an open enrollment student, third priority for enrollment to students who reside in the learning community and who contribute to the socioeconomic diversity of enrollment at the school building to which the student will be assigned pursuant to section 79-235, and final priority for enrollment to other students who reside in the learning community. The option school district shall not be required to accept a student meeting the priority criteria in this section if the district is at capacity as determined pursuant to subsection (1) of this section except as provided in section 79-235.01 or 79-240. For purposes of the enrollment option program, a student who contributes to the socioeconomic diversity of enrollment at a

school building within a learning community means (a) a student who does not qualify for free or reduced-price lunches when, based upon the certification pursuant to section 79-2120, the school building the student will be assigned to attend either has more students qualifying for free or reduced-price lunches than the average percentage of such students in all school buildings in the learning community or provides free meals to all students pursuant to the community eligibility provision or (b) a student who qualifies for free or reduced-price lunches based on information collected voluntarily from parents and guardians pursuant to section 79-237 when, based upon the certification pursuant to section 79-2120, the school building the student will be assigned to attend has fewer students qualifying for free or reduced-price lunches than the average percentage of such students in all school buildings in the learning community and does not provide free meals to all students pursuant to the community eligibility provision.

Source: Laws 1989, LB 183, § 7; Laws 1990, LB 843, § 8; Laws 1991, LB 207, § 5; Laws 1992, LB 1001, § 37; Laws 1994, LB 930, § 2; R.S.1943, (1994), § 79-3407; Laws 1996, LB 900, § 42; Laws 1997, LB 346, § 2; Laws 2001, LB 797, § 7; Laws 2006, LB 1024, § 20; Laws 2009, LB62, § 3; Laws 2009, LB549, § 7; Laws 2016, LB1066, § 4; Laws 2016, LB1067, § 17; Laws 2023, LB705, § 55.

Operative date September 2, 2023.

79-239 Application; request for release; rejection; notice; appeal; school district; State Department of Education; duties.

(1) If an application is rejected by the option school district or if the resident school district rejects a request for release under subsection (1) of section 79-237, the rejecting school district shall provide written notification to the parent or guardian stating (a) the specific reasons for the rejection including, for students with an individualized education program under the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., or with a diagnosed disability as defined in section 79-1118.01, a description of services and accommodations required that the school district does not have the capacity to provide, and (b) the process for appealing such rejection to the State Board of Education. Such notification shall be sent by certified mail.

(2) The parent or legal guardian may appeal a rejection to the State Board of Education by filing a written request, together with a copy of the rejection notice, with the State Board of Education. Such request and copy of the notice must be received by the board within thirty days after the date the notification of the rejection was received by the parent or legal guardian. Such hearing shall be held in accordance with the Administrative Procedure Act and shall determine whether the procedures of sections 79-234 to 79-241 have been followed.

(3)(a) Beginning July 1, 2024, and on or before July 1 of each year thereafter, each school district shall provide to the State Department of Education, on forms prescribed by the department, information relating to all applications rejected by the option school district. Such information shall include, but not be limited to, (a) the number of applications rejected in each public school in such district, (b) an explanation why each application was rejected, (c) whether each application for option enrollment indicated that the student had an individual-

ized education program under the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., or had been diagnosed with a disability as defined in section 79-1118.01, and (d) whether information regarding the requirements of subsection (4) of section 79-238 was provided to the applicant.

(b) The State Department of Education shall annually compile the information received pursuant to this subsection and provide a report on such information electronically to the Legislature beginning on September 1, 2024, and on or before September 1 of each year thereafter. The State Board of Education may adopt and promulgate rules and regulations to carry out this subsection.

Source: Laws 1989, LB 183, § 8; Laws 1992, LB 1001, § 38; Laws 1993, LB 348, § 67; R.S.1943, (1994), § 79-3408; Laws 1996, LB 900, § 43; Laws 2009, LB549, § 8; Laws 2023, LB705, § 56.
Operative date September 2, 2023.

Cross References

Administrative Procedure Act, see section 84-920.

79-244 Program; effect on contracting.

The enrollment option program does not preclude a school district from contracting with other school districts, educational service units, or other state-approved entities for the provision of services.

Source: Laws 1989, LB 183, § 14; Laws 1990, LB 843, § 11; R.S.1943, (1994), § 79-3414; Laws 1996, LB 900, § 48; Laws 1997, LB 346, § 4; Laws 2023, LB705, § 57.
Operative date September 2, 2023.

(g) STUDENT DISCIPLINE

79-254 Act, how cited.

Sections 79-254 to 79-294 shall be known and may be cited as the Student Discipline Act.

Source: Laws 1994, LB 1250, § 6; Laws 1995, LB 658, § 1; R.S.Supp.,1995, § 79-4,169; Laws 1996, LB 900, § 58; Laws 1999, LB 195, § 1; Laws 2023, LB705, § 58.
Operative date July 1, 2023.

Cross References

Gun-free school zones, see section 28-1204.04.

Membership in secret school organization, grounds for denial of school privileges, see section 79-2,101 et seq.

79-256 Terms, defined.

For purposes of the Student Discipline Act, unless the context otherwise requires:

- (1) Long-term suspension means the exclusion of a student from attendance in all schools within the system for a period exceeding five school days but less than twenty school days;
- (2) Expulsion means exclusion from attendance in all schools within the system in accordance with section 79-283;
- (3) Mandatory reassignment means the involuntary transfer of a student to another school; and

(4) Short-term suspension means the exclusion of a student from attendance in all schools within the system for a period not to exceed five school days.

Source: Laws 1976, LB 503, § 10; Laws 1994, LB 1250, § 15; R.S.1943, (1994), § 79-4,179; Laws 1996, LB 900, § 60; Laws 1997, LB 232, § 1; Laws 2023, LB705, § 62.
Operative date September 2, 2023.

79-262.01 Behavioral intervention, behavioral management, classroom management, and removal of a student from a classroom in school; model policy; school district policy; training.

(1) On or before July 1, 2025, the State Department of Education shall develop and adopt a model policy relating to behavioral intervention, behavioral management, classroom management, and removal of a student from a classroom in school. The model policy shall include appropriate training for school employees on behavioral intervention, behavioral management, classroom management, and removal of a student from a classroom in schools and how frequently such training shall be required.

(2) On or before August 1, 2025, each school district shall develop and adopt a policy consistent with or comparable to the model policy developed by the State Department of Education pursuant to subsection (1) of this section, which shall be a requirement for accreditation in accordance with section 79-703. Such policy shall be filed with the Commissioner of Education. The policy developed and adopted by a school district pursuant to this subsection shall be included with any notifications required under the Student Discipline Act.

(3)(a) Beginning in school year 2026-27, each school district shall ensure that any school employee who has behavioral management responsibilities participates in behavioral awareness and intervention training consistent with the school district policy developed and adopted in accordance with subsection (2) of this section. Such training shall be provided by the school district or such school district's educational service unit.

(b) Each school district shall, either independently, or through the educational service unit of which such school district is a member, develop and provide behavioral awareness and intervention training to employees from such school who have behavioral management responsibilities. If such training is provided by the educational service unit, such training shall be available to any educational service unit employee and any member school district employee that works in a school and has behavioral management responsibilities. Such training shall be consistent with the model policy developed by the State Department of Education pursuant to subsection (1) of this section.

(4) The State Board of Education may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2023, LB705, § 59.
Operative date July 1, 2023.

79-263 School district; policy regarding firearms; requirements.

(1) Except as provided in section 79-265.01, each school district shall adopt a policy requiring the expulsion from school for a period of not less than one year of any student who is determined to have knowingly and intentionally possessed, used, or transmitted a firearm on school grounds, in a vehicle owned,

leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or his or her designee, or at a school-sponsored activity or athletic event. For purposes of this section, firearm means a firearm as defined in 18 U.S.C. 921. The policy shall authorize the superintendent or the school board or board of education to modify the expulsion requirement on an individual basis.

(2) Each school district shall provide annually to the State Department of Education:

(a) An assurance that the school district has in effect the policy required by subsection (1) of this section; and

(b) A description of the circumstances surrounding any expulsions imposed under the policy required by subsection (1) of this section, including:

- (i) The name of the school concerned;
- (ii) The number of students expelled from the school; and
- (iii) The types of weapons concerned.

Source: Laws 1995, LB 658, § 6; R.S.Supp.,1995, § 79-4,176.01; Laws 1996, LB 900, § 67; Laws 1996, LB 1050, § 3; Laws 2023, LB705, § 63.

Operative date September 2, 2023.

Cross References

Gun-free school zones, see section 28-1204.04.

79-265 Principal; suspend student; grounds; procedure; written statement; conference.

(1) Except as provided in section 79-265.01, the principal may deny any student the right to attend school or to take part in any school function for a period of up to five school days on the following grounds:

(a) Conduct constituting grounds for expulsion as set out in the Student Discipline Act; or

(b) Any other violation of rules and standards of behavior adopted under the act.

(2) Such short-term suspension shall be made only after the principal has made an investigation of the alleged conduct or violation and has determined that such suspension is necessary to help any student, to further school purposes, or to prevent an interference with school purposes.

(3) Before such short-term suspension takes effect, the student shall be given oral or written notice of the charges against him or her, an explanation of the evidence the authorities have, and an opportunity to present his or her version.

(4) Within twenty-four hours or such additional time as is reasonably necessary, not to exceed an additional forty-eight hours, following such suspension, the principal shall send a written statement to the student and his or her parent or guardian describing the student's conduct, misconduct, or violation of the rule or standard and the reasons for the action taken. The principal shall make a reasonable effort to hold a conference with the parent or guardian before or

at the time the student returns to school and shall document such effort in writing.

Source: Laws 1976, LB 503, § 9; Laws 1994, LB 1250, § 14; R.S.1943, (1994), § 79-4,178; Laws 1996, LB 900, § 69; Laws 2023, LB705, § 64.

Operative date September 2, 2023.

79-265.01 Pre-kindergarten through second grade students; suspension; prohibited; exceptions.

(1) Except as provided in subsection (2) of this section, an elementary school shall not suspend a student in pre-kindergarten through second grade. Each school district shall develop a policy to implement this section which shall include disciplinary measures inside the school as an alternative to suspension.

(2) An elementary school may suspend a student in pre-kindergarten through second grade if such student brings a deadly weapon as defined in section 28-109 on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or his or her designee, or at a school-sponsored activity or athletic event.

Source: Laws 2023, LB705, § 60.

Operative date September 2, 2023.

79-265.02 Student; suspension; classwork and homework; guidelines.

Any student who is suspended shall be given an opportunity to complete any classwork and homework missed during the period of suspension, including, but not limited to, examinations. Each school district shall develop and adopt guidelines that provide any such student with the opportunity to complete classwork and homework. Such guidelines shall not require the student to attend the school district's alternative programs for expelled students in order to complete classwork and homework. The guidelines shall be provided to the student and a parent or guardian at the time of suspension.

Source: Laws 2023, LB705, § 61.

Operative date September 2, 2023.

79-266 Pre-expulsion procedures; when; expelled student; alternative assignments; suspension of enforcement; agreement between school boards; reinstatement; when; expungement; accept credits, conditions.

(1) Beginning July 1, 1997, each school district shall have an alternative school, class, or educational program or the procedures of subsection (2) of this section available or in operation for all expelled students.

Any two or more school boards or boards of education may join together in providing alternative schools, classes, or educational programs. Any district may by agreement with another district send its suspended or expelled students to any alternative school, class, or educational program already in operation by such other district. An educational program may include, but shall not be limited to, individually prescribed educational and counseling programs or a community-centered classroom with experiences for the student as an observer or aide in governmental functions, as an on-the-job trainee, or as a participant in specialized tutorial experiences. Such programs shall include an individual-

ized learning program to enable the student to continue academic work for credit toward graduation. The State Department of Education shall adopt and promulgate rules and regulations relating to alternative schools, classes, and educational programs.

(2) If a district does not provide an alternative school, class, or educational program for expelled students, the district shall follow the procedures in this subsection prior to expelling a student unless the expulsion was required by subsection (4) of section 79-283: A conference shall be called by a school administrator and held to assist the district in the development of a plan with the participation of a parent or legal guardian, the student, a school representative, and a representative of either a community organization with a mission of assisting young people or a representative of an agency involved with juvenile justice. The plan shall be in writing and adopted by a school administrator and presented to the student and the parent or legal guardian. The plan shall (a) specify guidelines and consequences for behaviors which have been identified as preventing the student from achieving the desired benefits from the educational opportunities provided, (b) identify educational objectives that must be achieved in order to receive credits toward graduation, (c) specify the financial resources and community programs available to meet both the educational and behavioral objectives identified, and (d) require the student to attend monthly reviews in order to assess the student's progress toward meeting the specified goals and objectives.

(3) A school district that has expelled a student may suspend the enforcement of such expulsion unless the expulsion was required by subsection (4) of section 79-283. The suspension may be for a period not to exceed the length of the expulsion. As a condition of such suspended action, the school district may require participation in a plan pursuant to subsection (2) of this section or assign the student to a school, class, or educational program which the school district deems appropriate.

At the conclusion of such suspension period, the school district shall (a) reinstate any student who has satisfactorily participated in a plan pursuant to subsection (2) of this section or the school, class, or educational program to which such student has been assigned and permit the student to return to the school of former attendance or to attend other programs offered by the district or (b) if the student's conduct has been unsatisfactory, enforce the remainder of the expulsion action.

If the student is reinstated, the district may also take action to expunge the record of the expulsion action.

(4) At the conclusion of an expulsion, a school district shall reinstate the student and accept nonduplicative, grade-appropriate credits earned by the student during the term of expulsion from any Nebraska accredited institution or institution accredited by one of the six regional accrediting bodies in the United States.

Source: Laws 1994, LB 1250, § 16; Laws 1995, LB 658, § 2; R.S.Supp.,1995, § 79-4,179.01; Laws 1996, LB 900, § 70; Laws 1996, LB 1050, § 4; Laws 1997, LB 232, § 2; Laws 2023, LB705, § 65.

Operative date September 2, 2023.

79-267 Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students.

Except as provided in section 79-265.01, the following student conduct shall constitute grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, when such activity occurs on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by his or her designee, or at a school-sponsored activity or athletic event:

(1) Use of violence, force, coercion, threat, intimidation, or similar conduct in a manner that constitutes a substantial interference with school purposes;

(2) Willfully causing or attempting to cause substantial damage to property, stealing or attempting to steal property of substantial value, or repeated damage or theft involving property;

(3) Causing or attempting to cause personal injury to a school employee, to a school volunteer, or to any student. Personal injury caused by accident, self-defense, or other action undertaken on the reasonable belief that it was necessary to protect some other person shall not constitute a violation of this subdivision;

(4) Threatening or intimidating any student for the purpose of or with the intent of obtaining money or anything of value from such student;

(5) Knowingly possessing, handling, or transmitting any object or material that is ordinarily or generally considered a weapon;

(6) Engaging in the unlawful possession, selling, dispensing, or use of a controlled substance or an imitation controlled substance, as defined in section 28-401, a substance represented to be a controlled substance, or alcoholic liquor as defined in section 53-103.02 or being under the influence of a controlled substance or alcoholic liquor;

(7) Public indecency as defined in section 28-806, except that this subdivision shall apply only to students at least twelve years of age but less than nineteen years of age;

(8) Engaging in bullying as defined in section 79-2,137;

(9) Sexually assaulting or attempting to sexually assault any person if a complaint has been filed by a prosecutor in a court of competent jurisdiction alleging that the student has sexually assaulted or attempted to sexually assault any person, including sexual assaults or attempted sexual assaults which occur off school grounds not at a school function, activity, or event. For purposes of this subdivision, sexual assault means sexual assault in the first degree as defined in section 28-319, sexual assault in the second degree as defined in section 28-320, sexual assault of a child in the second or third degree as defined in section 28-320.01, or sexual assault of a child in the first degree as defined in section 28-319.01, as such sections now provide or may hereafter from time to time be amended;

(10) Engaging in any other activity forbidden by the laws of the State of Nebraska which activity constitutes a danger to other students or interferes with school purposes; or

(11) A repeated violation of any rules and standards validly established pursuant to section 79-262 if such violations constitute a substantial interference with school purposes.

It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a student who is truant, tardy, or otherwise absent from required school activities.

Source: Laws 1976, LB 503, § 11; Laws 1983, LB 209, § 2; Laws 1988, LB 316, § 3; Laws 1994, LB 1250, § 17; Laws 1995, LB 658, § 3; R.S.Supp.,1995, § 79-4,180; Laws 1996, LB 900, § 71; Laws 1996, LB 1050, § 5; Laws 2006, LB 1199, § 83; Laws 2008, LB205, § 2; Laws 2010, LB861, § 83; Laws 2023, LB705, § 66. Operative date September 2, 2023.

Cross References

Anabolic steroids, prohibited acts, see section 79-296.

Membership in secret school organization, grounds for expulsion, see section 79-2,101 et seq.

79-268 Long-term suspension, expulsion, or mandatory reassignment; procedures; enumerated.

If a principal makes a decision to discipline a student by long-term suspension, expulsion, or mandatory reassignment, the following procedures shall be followed:

(1) The decision as to recommend discipline shall be made within two school days after learning of the alleged student misconduct. On the date of the decision, a written charge and a summary of the evidence supporting such charge shall be filed with the superintendent. The school shall, within two school days after the decision, send written notice by registered or certified mail to the student and his or her parent or guardian informing them of the rights established under the Student Discipline Act;

(2) Such written notice shall include the following:

(a) The rule or standard of conduct allegedly violated and the acts of the student alleged to constitute a cause for long-term suspension, expulsion, or mandatory reassignment, including a summary of the evidence to be presented against the student;

(b) The penalty, if any, which the principal has recommended in the charge and any other penalty to which the student may be subject;

(c) A statement that, before long-term suspension, expulsion, or mandatory reassignment can be invoked, the student has a right to a hearing, upon request, and that if the student is suspended pending the outcome of the hearing, the student may complete classwork and homework, including, but not limited to, examinations, missed during the period of suspension pursuant to district guidelines which shall not require the student to attend the school district's alternative programs for expelled students in order to complete classwork or homework;

(d) A description of the hearing procedures provided by the act, along with procedures for appealing any decision rendered at the hearing;

(e) A statement that the principal, legal counsel for the school, the student, the student's parent, or the student's representative or guardian has the right (i) to examine the student's academic and disciplinary records and any affidavits to be used at the hearing concerning the alleged misconduct and (ii) to know

the identity of the witnesses to appear at the hearing and the substance of their testimony; and

(f) A form on which the student, the student's parent, or the student's guardian may request a hearing, to be signed by such parties and delivered to the principal or superintendent in person or by registered or certified mail to the address provided on such form, as prescribed in sections 79-271 and 79-272;

(3) When a notice of intent to discipline a student by long-term suspension, expulsion, or mandatory reassignment is filed with the superintendent, the student may be suspended by the principal until the date the long-term suspension, expulsion, or mandatory reassignment takes effect, if the principal determines that the student must be suspended immediately to prevent or substantially reduce the risk of (a) interference with an educational function or school purpose or (b) a personal injury to the student himself or herself, other students, school employees, or school volunteers; and

(4) For purposes of this section, mandatory reassignment, regardless of its implementation date, shall be subject to the procedures of this section.

The Student Discipline Act does not preclude the student or the student's parent, guardian, or representative from discussing and settling the matter with appropriate school personnel prior to the time the long-term suspension, expulsion, or mandatory reassignment takes effect.

Source: Laws 1976, LB 503, § 12; Laws 1994, LB 1250, § 18; R.S.1943, (1994), § 79-4,181; Laws 1996, LB 900, § 72; Laws 2023, LB705, § 67.

Operative date September 2, 2023.

79-269 Long-term suspension, expulsion, or mandatory reassignment; hearing; procedure; hearing examiner; how designated; examination of records.

(1)(a) If a hearing is requested within five school days after receipt of the notice as provided in section 79-268, the superintendent shall recommend appointment of a hearing examiner within two school days after receipt of the hearing request.

(b) The student or the student's parent or guardian may request designation of a hearing examiner other than the hearing examiner recommended by the superintendent if notice of the request is given to the superintendent within two school days after receipt of the superintendent's recommended appointment. Upon receiving such request, the superintendent shall provide one alternative hearing examiner who is not an employee of the school district or otherwise currently under contract with the school district and whose impartiality may not otherwise be reasonably questioned. The superintendent may also provide an additional list of hearing examiners that may include hearing examiners employed by or under contract with the school district. The student or the student's parent or guardian shall, within five school days, select a hearing examiner to conduct the hearing who was recommended, provided as an alternative hearing examiner, or included on an additional list, if any, pursuant to this subdivision and shall notify the superintendent in writing of the selection. The superintendent shall appoint the selected hearing examiner upon receipt of such notice.

(c) For purposes of this subsection, individuals whose impartiality may be reasonably questioned shall include, but not be limited to, individuals who:

- (i) Have a personal bias or prejudice concerning a party;
- (ii) Have personal knowledge of evidentiary facts concerning the proceeding;
- (iii) Have served as legal counsel to the school district; or
- (iv) Have a spouse who is an employee of, or is under contract with, the school district.

(d) For purposes of this section a qualified hearing examiner shall be an individual who has knowledge of the Student Discipline Act, training in the requirements of the act, or experience conducting student hearings.

(e) The hearing examiner shall, within two school days after being appointed, give written notice to the principal, the student, and the student’s parent or guardian of the time and place for the hearing.

(2) The hearing examiner shall be any person designated pursuant to subsection (1) of this section, if such person (a) has not brought the charges against the student, (b) shall not be a witness at the hearing, and (c) has no involvement in the charge. Expenses and fees of any hearing examiner, in connection with the hearing, shall be paid by the school board.

(3) The hearing shall be held within a period of five school days after appointment of the hearing examiner, but such time may be changed by the hearing examiner for good cause with consent of the parties. No hearing shall be held upon less than two school days’ actual notice to the principal, the student, and the student’s parent or guardian, except with the consent of all the parties.

(4) The principal or legal counsel for the school, the student, and the student’s parent, guardian, or representative have the right to receive a copy of all records and written statements referred to in the Student Discipline Act as well as the statement of any witness in the possession of the school board or board of education no later than forty-eight hours prior to the hearing.

Source: Laws 1976, LB 503, § 13; Laws 1994, LB 1250, § 19; R.S.1943, (1994), § 79-4,182; Laws 1996, LB 900, § 73; Laws 2023, LB705, § 68.

Operative date September 2, 2023.

79-272 Hearing; requested within thirty days; effect.

If a hearing is requested under sections 79-268 and 79-269 more than five school days but not more than thirty calendar days following the actual receipt of written notice, the hearing examiner shall be appointed and the hearing held pursuant to the requirements of section 79-269 but the imposed punishment shall continue in effect pending final determination.

Source: Laws 1976, LB 503, § 16; Laws 1994, LB 1250, § 22; R.S.1943, (1994), § 79-4,185; Laws 1996, LB 900, § 76; Laws 2023, LB705, § 69.

Operative date September 2, 2023.

79-276 Hearing; evidence on student’s conduct and records.

At a hearing requested under sections 79-268 and 79-269, the principal shall present to the hearing examiner statements, in affidavit form, of any person

having information about the student's conduct and the student's records but not unless such statements and records have been provided to the student or the student's parent, guardian, or representative at least forty-eight hours prior to the hearing. The information contained in such records shall be explained and interpreted, prior to or at the hearing, to the student, parent, guardian, or representative, upon request, by appropriate school personnel.

Source: Laws 1976, LB 503, § 20; Laws 1994, LB 1250, § 26; R.S.1943, (1994), § 79-4,189; Laws 1996, LB 900, § 80; Laws 2023, LB705, § 70.

Operative date September 2, 2023.

79-278 Hearing; witnesses; testimony; cross-examination; availability of witnesses.

(1) The student, the student's parent, guardian, or representative, the principal, or the hearing examiner may ask witnesses to testify at the hearing requested under sections 79-268 and 79-269. Such testimony shall be under oath, and the hearing examiner shall be authorized to administer the oath. The hearing examiner shall make reasonable effort to assist the student or the student's parent, guardian, or representative in obtaining the attendance of witnesses. The school district shall make available those witnesses who have knowledge of or were involved in the alleged misconduct and subsequent discipline of the student if such witnesses are requested by the student or the student's parent, guardian, or representative and such witnesses are employees or under contract with the school district.

(2) The student, the student's parent, guardian, or representative, the principal, or the hearing examiner has the right to question any witness giving information at the hearing.

Source: Laws 1976, LB 503, § 22; Laws 1994, LB 1250, § 28; R.S.1943, (1994), § 79-4,191; Laws 1996, LB 900, § 82; Laws 2023, LB705, § 71.

Operative date September 2, 2023.

79-282 Hearing; hearing examiner; report; contents; review; notice; final disposition; how determined.

(1) After a hearing requested under sections 79-268 and 79-269, a report shall be made by the hearing examiner of his or her findings and a recommendation of the action to be taken, which report shall be made to the superintendent and the student or the student's parent or guardian within ten calendar days after the hearing and shall explain, in terms of the needs of both the student and the school board, the reasons for the particular action recommended. Such recommendation may range from no action, through the entire field of counseling, to long-term suspension, expulsion, mandatory reassignment, or an alternative educational placement under section 79-266.

(2) A review shall be made of the hearing examiner's report by the superintendent, who may change, revoke, or impose the sanction recommended by the hearing examiner but shall not impose a sanction more severe than that recommended by the hearing examiner. The superintendent shall notify the student or the student's parent or guardian of the superintendent's determination within five school days after receipt of the hearing examiner's report.

(3) The findings and recommendations of the hearing examiner, the determination by the superintendent, and any determination on appeal to the governing body, shall be made solely on the basis of the evidence presented at the hearing or, in addition, on any evidence presented on appeal.

Source: Laws 1976, LB 503, § 26; Laws 1994, LB 1250, § 32; Laws 1995, LB 658, § 4; R.S.Supp., 1995, § 79-4, 195; Laws 1996, LB 900, § 86; Laws 2023, LB705, § 72.
Operative date September 2, 2023.

79-283 Hearing; final disposition; written notice; effect; period of expulsion; review; when; procedure; readmittance.

(1) Written notice of the findings and recommendations of the hearing examiner and the determination of the superintendent under section 79-282 shall be made by certified or registered mail or by personal delivery to the student or the student's parent or guardian. Upon receipt of such written notice by the student, parent, or guardian, the determination of the superintendent shall take immediate effect unless the student or the student's parent or guardian appeals the written notice of determination of the superintendent pursuant to section 79-285.

(2) Except as provided in subsections (3) and (4) of this section, the expulsion of a student shall be for a period not to exceed the remainder of the semester in which it took effect unless the misconduct occurred (a) within ten school days prior to the end of the first semester, in which case the expulsion shall remain in effect through the second semester, or (b) within ten school days prior to the end of the second semester, in which case the expulsion shall remain in effect for summer school and the first semester of the following school year subject to the provisions of subsection (5) of this section. Such action may be modified or terminated by the school district at any time during the expulsion period. For purposes of this subsection, if the misconduct occurred prior to the last ten school days of the first semester and the expulsion takes effect in the second semester because the recommendation for expulsion was appealed to a hearing examiner or the school board or board of education, the length of the expulsion shall not exceed the number of days it would have been in effect had the appeal not been made.

(3) The expulsion of a student for (a) the knowing and intentional use of force in causing or attempting to cause personal injury to a school employee, school volunteer, or student except as provided in subdivision (3) of section 79-267 or (b) the knowing and intentional possession, use, or transmission of a dangerous weapon, other than a firearm, shall be for a period not to exceed the remainder of the school year in which it took effect if the misconduct occurs during the first semester. If the expulsion takes place during the second semester, the expulsion shall remain in effect for summer school and may remain in effect for the first semester of the following school year. Such action may be modified or terminated by the school district at any time during the expulsion period.

(4) The expulsion of a student for the knowing and intentional possession, use, or transmission of a firearm, which for purposes of this section means a firearm as defined in 18 U.S.C. 921 as of January 1, 1995, shall be for a period as provided by the school district policy adopted pursuant to section 79-263. This subsection shall not apply to (a) the issuance of firearms to or possession of firearms by members of the Reserve Officers Training Corps when training

or (b) firearms which may lawfully be possessed by the person receiving instruction under the immediate supervision of an adult instructor who may lawfully possess firearms.

(5) Any expulsion that will remain in effect during the first semester of the following school year shall be automatically scheduled for review before the beginning of the school year. The review shall be conducted by the hearing examiner after the hearing examiner has given notice of the review to the student and the student's parent or guardian. This review shall be limited to newly discovered evidence or evidence of changes in the student's circumstances occurring since the original hearing. This review may lead to a recommendation by the hearing examiner that the student be readmitted for the upcoming school year. If the school board or board of education or a committee of such board took the final action to expel the student, the student may be readmitted only by action of the board. Otherwise the student may be readmitted by action of the superintendent.

Source: Laws 1976, LB 503, § 27; Laws 1994, LB 1250, § 33; Laws 1995, LB 658, § 5; Laws 1996, LB 893, § 1; R.S.Supp.,1995, § 79-4,196; Laws 1996, LB 900, § 87; Laws 2023, LB705, § 73.
Operative date September 2, 2023.

79-287 Hearing; appeal; board; final action.

The final action of the board under section 79-286 shall be taken within three calendar days after the hearing and be evidenced by personally delivering or mailing by certified mail a copy of the board's decision to the student and his or her parent or guardian within three calendar days after the final action.

Source: Laws 1976, LB 503, § 31; Laws 1994, LB 1250, § 37; R.S.1943, (1994), § 79-4,200; Laws 1996, LB 900, § 91; Laws 2023, LB705, § 74.
Operative date September 2, 2023.

(h) STUDENT AND YOUTH ORGANIZATIONS

79-297 Youth organization; provide information, services, and activities; conditions.

(1) For purposes of this section:

(a) School has the same meaning as in section 79-101;

(b) School district has the same meaning as in section 79-101; and

(c) Youth organization means a corporation chartered by Congress and listed in 36 U.S.C. Subtitle II, Part B, as of January 1, 2023.

(2)(a) Each school district shall, upon request, allow a representative of any youth organization to provide (i) oral or written information to the students of such school district regarding the youth organization and how such youth organization furthers the educational interests and civic involvement of students in a manner consistent with good citizenship and (ii) services and activities to any student of such school district who is a member of such youth organization.

(b) Each requesting youth organization shall be permitted to provide such information, services, and activities in a school building or on the school

grounds of a school in each school district at least once during each school year.

(3) Each school district shall make a good faith effort to select a date, time, and location for each requesting youth organization to provide such information, services, or activities that is mutually agreeable to the school district and to the youth organization. Oral information provided under subdivision (2)(a)(i) of this section may only be provided during noninstructional time.

(4) Prior to allowing a representative of a youth organization to provide information, services, or activities at a school pursuant to this section, such representative shall be subject to a background check. Except as otherwise provided by this section or by the rules and regulations of the Nebraska State Patrol, the parameters of the background check shall be determined by the relevant school district. A school district may prohibit any representative of a youth organization that has been convicted of a felony from providing information, services, or activities pursuant to this section at any school in such school district. Each representative of a youth organization is responsible for all costs associated with obtaining such background check.

(5) Nothing in this section shall be construed to supersede a parent’s ability to exercise any rights such parent has under a school district policy established pursuant to section 79-531.

Source: Laws 2023, LB705, § 126.
Operative date September 2, 2023.

79-2,103 Repealed. Laws 2023, LB705, § 136.
Operative date September 2, 2023.

(n) PART-TIME ENROLLMENT

79-2,136 Part-time enrollment; extracurricular activities; school board; duties; section, how construed.

(1) Each school board shall allow the part-time enrollment of students, for all courses selected by the students, who are residents of the school district pursuant to subsections (1) and (2) of section 79-215 and who are also enrolled in a private, denominational, or parochial school or in a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements and shall establish policies and procedures for such part-time enrollment. Such policies and procedures may include provisions permitting the part-time enrollment of such students who are not residents of such school districts to the extent permitted pursuant to section 79-215 and may require part-time students to follow school policies that apply to other students at any time the part-time student is present on school grounds or at a school-sponsored activity or athletic event. Part-time enrollment shall not entitle a student to transportation or transportation reimbursements pursuant to section 79-611.

(2) Each school board shall establish policies and procedures to allow any student who is a resident of the school district pursuant to subsection (1) or (2) of section 79-215 and who is enrolled in a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements to participate in any extracurricular activities as defined in section 79-2,126, including, but not limited to, interschool competitions, to the same extent and subject to the same requirements, conditions, and procedures as a student enrolled in a

public school governed by such board, except that any school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements shall set the standards for satisfactory academic performance for a student from the school to participate in extracurricular activities pursuant to this subsection and shall provide assurances of compliance with such academic standards.

(3) School board policies and procedures adopted pursuant to subsection (2) of this section (a) shall require any student participating in extracurricular activities pursuant to such subsection to be enrolled in no more and no less than five credit hours offered by the school district in any semester, (b) shall not allow any preference in the selection of a student for participation in an extracurricular activity based on such student's status as a full-time student in the school district, and (c) may require any student participating in extracurricular activities pursuant to such subsection to follow school policies that apply to other students when present on school grounds or at a school-sponsored activity or athletic event. Participation in extracurricular activities pursuant to subsection (2) of this section shall not entitle a student to transportation, except to and from practices and events to the same extent as public school students participating in such activities, or transportation reimbursement pursuant to section 79-611.

(4) Nothing in this section shall be construed to exempt any student from the compulsory attendance provisions of sections 79-201 to 79-210.

Source: Laws 2006, LB 821, § 1; Laws 2010, LB1071, § 4; Laws 2018, LB1081, § 4; Laws 2023, LB705, § 75.
Operative date September 2, 2023.

(q) STATE SCHOOL SECURITY DIRECTOR

79-2,144 State school security director; duties.

The state school security director appointed pursuant to section 79-2,143 shall be responsible for providing leadership and support for safety and security for the public schools. Duties of the director include, but are not limited to:

(1) Collecting safety and security plans, required pursuant to rules and regulations of the State Department of Education relating to accreditation of schools, and other school security information from each school system in Nebraska. School districts shall provide the state school security director with the safety and security plans of the school district and any other security information requested by the director, but any plans or information submitted by a school district may be withheld by the department pursuant to subdivision (9) of section 84-712.05;

(2) Recommending minimum standards for school security on or before January 1, 2016, to the State Board of Education;

(3) Conducting an assessment of the security of each public school building, which assessment shall be completed by August 31, 2019;

(4) Identifying deficiencies in school security based on the minimum standards adopted by the State Board of Education and making recommendations to school boards for remedying such deficiencies;

(5) Establishing security awareness and preparedness tools and training programs for public school staff;

(6) Establishing research-based model instructional programs for staff, students, and parents to address the underlying causes for violent attacks on schools;

(7) Overseeing behavioral and mental health training, with a focus on suicide awareness and prevention in public schools pursuant to section 79-2,146;

(8) Establishing tornado preparedness standards which shall include, but not be limited to, ensuring that every school conducts at least two tornado drills per year;

(9) Responding to inquiries and requests for assistance relating to school security from private, denominational, and parochial schools;

(10) Recommending curricular and extracurricular materials to assist school districts in preventing and responding to cyberbullying and digital citizenship issues; and

(11) Carrying out the department's responsibilities under the School Safety and Security Reporting System Act.

Source: Laws 2014, LB923, § 2; Laws 2015, LB525, § 5; Laws 2017, LB512, § 8; Laws 2021, LB322, § 8; Laws 2022, LB1246, § 4; Laws 2023, LB705, § 76.

Operative date September 2, 2023.

Cross References

School Safety and Security Reporting System Act, see section 79-3101.

79-2,146 Behavioral and mental health training; suicide awareness and prevention training; requirements.

(1) Beginning in school year 2023-24, all public school employees who interact with students and any other appropriate personnel, as determined by the school superintendent, shall receive at least one hour of behavioral and mental health training with a focus on suicide awareness and prevention training each year. Such training may include, but need not be limited to, topics such as identification of early warning signs and symptoms of behavioral and mental health issues in students, appropriate and effective responses for educators to student behavioral and mental health issues, trauma-informed care, and procedures for making students and parents and guardians aware of services and supports for behavioral and mental health issues. This training shall be provided within the framework of existing inservice training programs offered by the State Department of Education or as part of required professional development activities.

(2) The department, in consultation with organizations including, but not limited to, the Nebraska State Suicide Prevention Coalition, the Nebraska chapter of the American Foundation for Suicide Prevention, the Behavioral Health Education Center of Nebraska, the National Alliance on Mental Illness Nebraska, and other organizations and professionals with expertise in behavioral and mental health and suicide prevention, shall develop a list of approved training materials to fulfill the requirements of subsection (1) of this section. Such materials shall include training on how to identify appropriate mental health services, both within the school and also within the larger community, and when and how to refer youth and their families to those services. Such materials may include programs that can be completed through self-review of suitable behavioral and mental health and suicide prevention materials.

(3) The department may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2014, LB923, § 4; Laws 2023, LB705, § 77.
Operative date September 2, 2023.

(w) DRESS CODE AND GROOMING POLICY

79-2,158 Dress code and grooming policy; school board; adopt; enforcement; requirements.

(1) On or before July 1, 2025, the school board of each school district shall adopt a written dress code and grooming policy to be implemented at the start of the 2025-26 school year that is consistent with the model policy developed by the State Department of Education in accordance with section 79-2,159 and may include any other procedures and provisions the school board deems appropriate.

(2) Enforcement of violations of the written dress code and grooming policy shall:

(a) Be treated as minor on the continuum of school rule violations and shall not constitute student conduct subject to long-term suspension, expulsion, or mandatory reassignment as provided in section 79-267;

(b) Not require the student to miss substantial classroom time, instruction time, or school activities; and

(c) Not, under any circumstance, allow an administrator, teacher, other member of the staff, or contractor to permanently or temporarily alter or cut a student's hair.

(3) No student shall be disproportionately affected by a dress code or grooming policy enforcement because of the student's gender, race, color, religion, disability, or national origin.

Source: Laws 2023, LB298, § 2.
Effective date September 2, 2023.

79-2,159 Model dress code and grooming policy; department; duties; health and safety standard; requirements.

(1) For purposes of this section:

(a) Department means the State Department of Education;

(b) National origin includes characteristics associated with actual or perceived place of birth, ancestry, or ethnicity including, but not limited to, skin color, natural and protective hairstyles, headdress, tribal regalia, and attire;

(c) Natural and protective hairstyles include, but are not limited to, braids, locks, twists, tight coils or curls, cornrows, bantu knots, afros, weaves, wigs, or head wraps;

(d) Race includes characteristics associated with actual or perceived race, ancestry, or ethnicity including, but not limited to, skin color, natural and protective hairstyles, tribal regalia, and attire;

(e) Religious attire and characteristics associated with religion includes, but is not limited to, natural and protective hairstyles, tribal regalia, burkas, hijabs, head wraps, or other headdress, adornments, and clothing garments used to express or observe one's religious beliefs; and

(f) Tribal regalia includes natural and protective hairstyles and traditional garments, jewelry, or other adornments or similar objects of cultural significance worn by members of an indigenous tribe of the United States or another country. Tribal regalia does not include any dangerous weapon or, except in compliance with an appropriate federal permit, any object that is otherwise prohibited by federal law.

(2) On or before December 1, 2024, the department shall develop and distribute a model dress code and grooming policy for schools that facilitates and encourages an inclusive and positive learning environment while complying with any applicable health or safety law, rule, regulation, ordinance, or resolution. Such model policy shall not:

(a) Target, disproportionately impact, discriminate, or be applied in a discriminatory manner against any students on the basis of race, religion, sex, disability, or national origin;

(b) Prohibit a student from wearing attire, including religious attire, natural and protective hairstyles, adornments or other characteristics associated with race, national origin, or religion; or

(c) Require a student's hair be permanently or temporarily altered.

(3) Such model policy shall include a statement that specifies that enforcement of a violation of such policy shall be done in a manner that is consistent with a school's overall discipline plan and in a consistent manner.

(4) The department may develop as part of the dress code and grooming policy a health and safety standard that allows for the regulation of characteristics associated with race, national origin, or religion in the dress code and grooming policy under certain circumstances. Such standard shall:

(a) Demonstrate that without the implementation of such standard, it is reasonably certain that the health and safety of the student or another individual will be impaired;

(b) Require adoption of the standard for nondiscriminatory reasons;

(c) Require that the standard be applied equally;

(d) Require that the school engage in a good faith effort to reasonably accommodate the student and notify the student's parent or guardian, in a language that such parent or guardian understands, of such an attempt to accommodate the student's appearance or any attire, tribal regalia, hairstyles, adornment, or other characteristic associated with race, national origin, or religion;

(e) Provide a process to obtain consent from a student's parent or guardian prior to altering a student's appearance or removing or altering a student's attire, tribal regalia, hairstyle, adornment, or other characteristic associated with race, national origin, or religion; and

(f) Provide a process to ensure records are kept on each effort to reasonably accommodate a student's appearance, attire, hairstyle, adornment, or other characteristics associated with race, national origin, or religion 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:

(i) The reason for such student's referral relating to the dress code and grooming policy; and

(ii) Federally identified demographic characteristics of such student.

Source: Laws 2023, LB298, § 3.

Effective date September 2, 2023.

ARTICLE 3

STATE DEPARTMENT OF EDUCATION

(a) DEPARTMENTAL STRUCTURE AND DUTIES

Section

79-303.01. State Department of Education; Department of Health and Human Services; Office of Probation Administration; State Court Administrator; sharing data relevant to court-involved students; memorandum of understanding; policies and procedures; consultant recommendations; reports.

(a) DEPARTMENTAL STRUCTURE AND DUTIES

79-303.01 State Department of Education; Department of Health and Human Services; Office of Probation Administration; State Court Administrator; sharing data relevant to court-involved students; memorandum of understanding; policies and procedures; consultant recommendations; reports.

(1) On or before October 1, 2023, the State Department of Education, the Department of Health and Human Services, the Office of Probation Administration, and the State Court Administrator shall enter into a memorandum of understanding for the sharing of data relevant to students who are under the jurisdiction of the juvenile court. The purpose for the sharing of data is to provide systems-wide coordination to improve educational opportunities and outcomes and to facilitate service coordination for such students. The memorandum shall include the intent for the State Department of Education to contract with an outside consultant with expertise in the education of court-involved students to assist in the development of such policies and procedures.

(2) The consultant shall provide recommendations addressing issues that include, but need not be limited to, the following:

(a) Identifying and defining the population of students whose data should be collected and shared;

(b) Defining the specific types of data to be collected and shared;

(c) Identifying shared data systems;

(d) Identifying the entities and persons for which the data should be accessible;

(e) Identifying both federal and state legal responsibilities and confidentiality parameters; and

(f) Developing a uniform approach for the transfer of educational credits.

(3) The development of such policies and procedures for the sharing of data shall be collaborative and shall include input from the appropriate entities including, but not limited to, the State Department of Education, the Department of Health and Human Services, the Office of Probation Administration, the State Court Administrator, the juvenile court system, the superintendent of schools for the youth and rehabilitation centers, public school districts, educators, and court-involved students and their parents. The consultant shall provide a draft report containing the recommendations described in subsection (2) of this section to the appropriate agency representatives and to the Commis-

sioner of Education, the chief executive officer of the Department of Health and Human Services, and the Chief Justice of the Supreme Court on or before September 1, 2024.

(4) The State Department of Education shall complete a final report detailing the recommendations of the consultant and any policies and procedures that are being considered for adoption by the State Department of Education, the Department of Health and Human Services, the Office of Probation Administration, and the State Court Administrator. The report shall be delivered electronically to the Chief Justice of the Supreme Court, the Governor, and the Clerk of the Legislature on or before December 1, 2024.

Source: Laws 2023, LB705, § 122.

Operative date June 2, 2023.

ARTICLE 7

ACCREDITATION, CURRICULUM, AND INSTRUCTION

(b) ACCREDITATION

Section

79-703. Public schools; education programs in state institutions that house juveniles; approval and accreditation standards; accreditation committee; duties; legislative intent.

(d) HIGH SCHOOL GRADUATION REQUIREMENTS AND EQUIVALENCY DIPLOMA

79-729. High school students; graduation requirements; exceptions.

(e) BOOKS, EQUIPMENT, AND SUPPLIES

79-734. School textbooks, equipment, and supplies; purchase and loan; rules and regulations; department; duties.

(i) QUALITY EDUCATION ACCOUNTABILITY ACT

79-760.01. Academic content standards; State Board of Education; duties.

(b) ACCREDITATION

79-703 Public schools; education programs in state institutions that house juveniles; approval and accreditation standards; accreditation committee; duties; legislative intent.

(1) To ensure both equality of opportunity and quality of programs offered, all public schools in the state shall be required to meet quality and performance-based approval or accreditation standards as prescribed by the State Board of Education. Beginning August 1, 2025, accreditation standards shall require each school district to develop and adopt a policy relating to behavioral intervention, behavioral management, classroom management, and removal of a student from a classroom in accordance with section 79-262.01. The board shall establish a core curriculum standard, which shall include multicultural education and vocational education courses, for all public schools in the state. Accreditation and approval standards shall be designed to assure effective schooling and quality of instructional programs regardless of school size, wealth, or geographic location. Accreditation standards for school districts that are members of a learning community shall include participation in the community achievement plan for the learning community as approved by the board. Accreditation standards for education programs in state institutions under the supervision of the Department of Health and Human Services that

house juveniles shall include an annual report to the State Board of Education by the superintendent of institutional schools. The board shall recognize and encourage the maximum use of cooperative programs and may provide for approval or accreditation of programs on a cooperative basis, including the sharing of administrative and instructional staff, between school districts for the purpose of meeting the approval and accreditation requirements established pursuant to this section and section 79-318.

(2) The Commissioner of Education shall appoint an accreditation committee which shall be representative of the educational institutions and agencies of the state and shall include as a member the director of admissions of the University of Nebraska.

(3) The accreditation committee shall be responsible for: (a) Recommending appropriate standards and policies with respect to the accreditation and classification of schools; and (b) making recommendations annually to the commissioner relative to the accreditation and classification of individual schools. No school shall be considered for accreditation status which has not first fulfilled all requirements for an approved school.

(4) All public schools in the state, including, but not limited to, schools operated by school districts and education programs in state institutions under the supervision of the Department of Health and Human Services that house juveniles, shall be accredited.

(5) It is the intent of the Legislature that all public school students shall have access to all educational services required of accredited schools. Such services may be provided through cooperative programs or alternative methods of delivery.

Source: Laws 1949, c. 248, § 1, p. 672; Laws 1953, c. 311, § 3, p. 1035; Laws 1984, LB 994, § 7; Laws 1985, LB 633, § 5; Laws 1988, LB 940, § 10; R.S.Supp., 1988, § 79-1247.02; Laws 1989, LB 15, § 3; Laws 1990, LB 259, § 30; Laws 1992, LB 922, § 6; R.S. 1943, (1994), § 79-4,140.16; Laws 1996, LB 900, § 377; Laws 2016, LB1067, § 30; Laws 2020, LB1188, § 15; Laws 2023, LB705, § 78.

Operative date July 1, 2023.

Cross References

Multicultural education program, see section 79-719 et seq.

Private, denominational, or parochial schools, election not to meet approval or accreditation requirements, see section 79-1601.

Vocational education, interdistrict agreements, see section 79-745 et seq.

(d) HIGH SCHOOL GRADUATION REQUIREMENTS AND EQUIVALENCY DIPLOMA

79-729 High school students; graduation requirements; exceptions.

(1) The Legislature recognizes the importance of assuring that all persons who graduate from Nebraska high schools possess certain minimum levels of knowledge, skills, and understanding. Each high school student shall complete a minimum of two hundred high school credit hours prior to graduation. At least eighty percent of the minimum credit hours shall be core curriculum courses prescribed by the State Board of Education.

(2) For students attending a public school:

(a) Beginning in school year 2023-24, at least five of the minimum credit hours shall be a high school course in personal finance or financial literacy; and

(b) Beginning in school year 2027-28, at least five of the minimum credit hours shall include computer science and technology education as required under section 79-3304.

(3)(a) Beginning in school year 2024-25, each public high school student shall complete and submit to the United States Department of Education a Free Application for Federal Student Aid prior to graduating from such high school except as otherwise provided in this subsection.

(b) A public high school student shall not be required to comply with subdivision (3)(a) of this section if:

(i) A parent or legal guardian of or a person standing in loco parentis to such student signs and submits the appropriate form prescribed by the Commissioner of Education pursuant to subdivision (3)(c) of this section indicating that such parent, legal guardian, or person standing in loco parentis authorizes such student to decline to complete and submit a Free Application for Federal Student Aid;

(ii) The school principal or the school principal's designee signs and submits the appropriate form prescribed by the Commissioner of Education pursuant to subdivision (3)(c) of this section authorizing such student to decline to complete and submit a Free Application for Federal Student Aid for good cause as determined by the school principal or the school principal's designee; or

(iii) A student who is nineteen years of age or older or is an emancipated minor signs and submits the appropriate form prescribed by the Commissioner of Education pursuant to subdivision (3)(c) of this section stating that such student declines to complete and submit a Free Application for Federal Student Aid.

(c) The Commissioner of Education shall prescribe the forms to be used by each public high school for purposes of compliance with subdivision (3)(b) of this section. Such forms shall be made available:

(i) By each public high school to students, parents and legal guardians of students, and persons standing in loco parentis to students; and

(ii) In English, Spanish, and any other language spoken by a majority of the students enrolled in any English learner program at such public high school.

(d) The school principal or the school principal's designee of each public high school shall provide such compliance information to the school district or governing authority for such public high school and to the State Department of Education without disclosing, for any student who has complied with the requirements of this subsection, personally identifiable information distinguishing whether such compliance was pursuant to subdivision (3)(a) or (b) of this section. Such school principal or school principal's designee shall provide separately the aggregate number of students who have not complied with this subsection, who complied pursuant to subdivision (3)(a) of this section, and who complied pursuant to subdivision (3)(b) of this section, unless otherwise prohibited by federal or state law regarding the confidentiality of student educational information.

(e) On or before December 31, 2025, and on or before December 31 of each year thereafter, the Commissioner of Education shall electronically submit a report with the information received by the State Department of Education pursuant to subdivision (3)(d) of this section to the Clerk of the Legislature.

(4) The State Board of Education may establish recommended statewide graduation guidelines.

(5) This section does not apply to high school students whose individualized education programs prescribe a different course of instruction.

(6) For purposes of this section, high school means grades nine through twelve and credit hour shall be defined by appropriate rules and regulations of the State Board of Education but shall not be less than the amount of credit given for successful completion of a course which meets at least one period per week for at least one semester.

(7) The State Board of Education shall adopt and promulgate rules and regulations as necessary to implement this section. Such rules and regulations shall include, but not be limited to:

(a) A timeline for the distribution of the Free Application for Federal Student Aid and the forms prescribed pursuant to subdivision (3)(c) of this section by public high schools and for the submission of the Free Application for Federal Student Aid and the forms prescribed pursuant to subdivision (3)(c) of this section;

(b) Standards regarding the information that a public high school must provide to students regarding:

(i) Instructions for filling out the Free Application for Federal Student Aid;

(ii) The options available to a student under subdivision (3)(b) of this section if a student wishes to decline to complete and submit a Free Application for Federal Student Aid; and

(iii) The method by which a student shall provide proof to the public high school that such student has completed and submitted the Free Application for Federal Student Aid or a form prescribed pursuant to subdivision (3)(c) of this section; and

(c) A requirement for each public high school to report the number of students who completed and submitted a Free Application for Federal Student Aid and the number of students who instead submitted a form prescribed pursuant to subdivision (3)(c) of this section.

Source: Laws 1984, LB 994, § 8; R.S.1943, (1994), § 79-4,140.03; Laws 1996, LB 900, § 403; Laws 2021, LB452, § 5; Laws 2022, LB1112, § 6; Laws 2023, LB705, § 79.

Operative date September 2, 2023.

Cross References

Financial Literacy Act, see section 79-3001.

(e) BOOKS, EQUIPMENT, AND SUPPLIES

79-734 School textbooks, equipment, and supplies; purchase and loan; rules and regulations; department; duties.

(1)(a) School boards and boards of education of all classes of school districts shall purchase all textbooks, equipment, and supplies necessary for the schools of such district. The duty to make such purchases may be delegated to employees of the school district.

(b) School boards and boards of education shall purchase and loan textbooks to all children who are enrolled in kindergarten to grade twelve of a public school.

(c) School boards and boards of education may adopt rules to carry out this subsection.

(2)(a) Through June 30, 2024, school boards and boards of education shall purchase and loan textbooks, upon individual request, to children who are enrolled in kindergarten to grade twelve of a private school which is approved for continued legal operation under rules and regulations established by the State Board of Education pursuant to subdivision (5)(c) of section 79-318. The Legislature may appropriate funds to carry out the provisions of this subdivision. A school district is not obligated to spend any money for the purchase and loan of textbooks to children enrolled in private schools other than funds specifically appropriated by the Legislature to be distributed by the State Department of Education for the purpose of purchasing and loaning textbooks as provided in this subdivision. Textbooks loaned to children enrolled in kindergarten to grade twelve of such private schools shall be textbooks which are designated for use in the public schools of the school district in which the child resides or the school district in which the private school the child attends is located. Such textbooks shall be loaned free to such children subject to such rules and regulations as are or may be prescribed by such school boards or boards of education. The State Department of Education shall adopt and promulgate rules and regulations to carry out this subdivision. The rules and regulations shall include provisions for the distribution of funds appropriated for textbooks. The rules and regulations shall include a deadline for applications from school districts for distribution of funds. If funds are not appropriated to cover the entire cost of applications, a pro rata reduction shall be made.

(b) Beginning on July 1, 2024, the State Department of Education shall purchase and loan textbooks, upon individual request, to children who are enrolled in kindergarten to grade twelve of a private school which is approved for continued legal operation under rules and regulations established by the State Board of Education pursuant to subdivision (5)(c) of section 79-318. The Legislature may appropriate funds to carry out this subdivision. The State Department of Education is not obligated to spend any money for the purchase and loan of textbooks to children enrolled in private schools other than funds specifically appropriated by the Legislature. The State Department of Education may utilize up to five percent of the appropriated funds to administer this subdivision. The State Department of Education may contract with a third-party vendor to assist in carrying out this subdivision. The State Board of Education may adopt and promulgate rules and regulations to carry out this subdivision. The rules and regulations shall include a formula or standard for determining a cost-per-child allocation of funding based on the Legislature's appropriation of funding. The rules and regulations shall allow a designated agent, which may include a private school, to assist the parents or guardians of a child in the request and acquisition of textbooks pursuant to this subdivision. It is the intent of the Legislature that on or before October 1, 2028, and every five years thereafter, the State Department of Education shall electronically provide to the Education Committee of the Legislature recommended changes to this subdivision that reflect advances in technology and educational content for students.

(3) For purposes of this section, textbook means any instructional material, including digital, electronic, or online resources, that is designated for use by

an individual student in classroom instruction as the principal source of study material.

Source: Laws 1891, c. 46, § 1, p. 334; Laws 1903, c. 99, § 1, p. 570; R.S.1913, § 6914; C.S.1922, § 6498; C.S.1929, § 79-1801; R.S. 1943, § 79-1801; Laws 1947, c. 283, § 1, p. 891; Laws 1949, c. 256, § 156, p. 745; Laws 1971, LB 659, § 2; Laws 1973, LB 358, § 3; Laws 1983, LB 203, § 1; Laws 1986, LB 757, § 1; Laws 1995, LB 159, § 1; R.S.Supp.,1995, § 79-4,118; Laws 1996, LB 900, § 408; Laws 2016, LB1066, § 7; Laws 2023, LB705, § 80. Operative date September 2, 2023.

(i) QUALITY EDUCATION ACCOUNTABILITY ACT

79-760.01 Academic content standards; State Board of Education; duties.

(1) The State Board of Education shall adopt measurable academic content standards for at least the grade levels required for statewide assessment pursuant to section 79-760.03. The standards shall cover the subject areas of reading, writing, mathematics, science, and social studies.

(2)(a) The board shall also adopt measurable academic content standards for the following as part of the social studies standards:

(i) Financial literacy; and

(ii) Education on the Holocaust and other acts of genocide as recognized by the Congress of the United States or the United Nations as of January 1, 2022.

(b) On or before March 1, 2024, the board shall also adopt measurable academic content standards for computer science and technology education under the mathematics, science, or career and technical education standards.

(3) Academic content standards adopted or recommended pursuant to this section shall be sufficiently clear and measurable to be used for testing student performance with respect to mastery of the content described in the state standards.

(4) The State Board of Education shall develop a plan to review and update standards for each subject area every seven years. The state board plan shall include a review of commonly accepted standards adopted by school districts.

Source: Laws 2000, LB 812, § 2; Laws 2007, LB653, § 5; Laws 2008, LB1157, § 2; Laws 2015, LB525, § 11; Laws 2021, LB452, § 6; Laws 2022, LB888, § 1; Laws 2022, LB1112, § 7; Laws 2023, LB705, § 81.

Operative date September 2, 2023.

Cross References

Financial Literacy Act, see section 79-3001.

ARTICLE 8

TEACHERS AND ADMINISTRATORS

(a) CERTIFICATES

Section
79-806. Legislative findings; purpose of sections.
79-807. Terms, defined.

- Section
79-808. Teachers and administrators; certificates and permits; requirements; board; duties; advisory committees; expenses.
- 79-809. Teachers' entry-level certificates or permits; qualifications.
- 79-816. Nebraska Teacher Apprenticeship Program; certificate or permit to teach; eligibility; requirements for completion; State Department of Education; Commissioner of Education; duties.
- 79-816.01. Interstate Teacher Mobility Compact; rules and regulations.
- (m) NEBRASKA TEACHER RECRUITMENT AND RETENTION ACT
- 79-8,111. Nebraska Teacher Recruitment and Retention Act, how cited.
- 79-8,112. Purpose of act.
- 79-8,113. Terms, defined.
- 79-8,114. Grants; eligibility.
- 79-8,115. Legislative intent.
- 79-8,116. Appropriation; legislative intent.
- 79-8,117. Rules and regulations.
- 79-8,118. Act, termination.
- (o) MASTER TEACHER PROGRAM ACT
- 79-8,124. Repealed. Laws 2023, LB705, § 135.
- 79-8,125. Repealed. Laws 2023, LB705, § 135.
- 79-8,126. Repealed. Laws 2023, LB705, § 135.
- 79-8,127. Repealed. Laws 2023, LB705, § 135.
- 79-8,128. Repealed. Laws 2023, LB705, § 135.
- 79-8,129. Repealed. Laws 2023, LB705, § 135.
- 79-8,130. Repealed. Laws 2023, LB705, § 135.
- 79-8,131. Repealed. Laws 2023, LB705, § 135.
- (p) EXCELLENCE IN TEACHING ACT
- 79-8,132. Transferred to section 85-3101.
- 79-8,133. Transferred to section 85-3103.
- 79-8,134. Transferred to section 85-3104.
- 79-8,135. Transferred to section 85-3105.
- 79-8,137. Transferred to section 85-3106.
- 79-8,137.01. Transferred to section 85-3107.
- 79-8,137.02. Transferred to section 85-3108.
- 79-8,137.03. Transferred to section 85-3109.
- 79-8,137.04. Transferred to section 85-3110.
- 79-8,137.05. Transferred to section 85-3112.
- 79-8,138. Transferred to section 85-3113.
- 79-8,139. Transferred to section 85-3114.
- 79-8,140. Transferred to section 85-3115.
- (s) ALTERNATIVE CERTIFICATION FOR QUALITY TEACHERS ACT
- 79-8,143. Act, how cited.
- 79-8,145. Teacher education program; baccalaureate degree, graduate degree, or professional degree; forty-eight or more semester credit hours or associate degree; temporary certificate to teach; issuance; terms and conditions.
- 79-8,145.01. Alternative teacher certification program; temporary certificate to teach; issuance; terms and conditions.

(a) CERTIFICATES

79-806 Legislative findings; purpose of sections.

(1) The Legislature finds that there is an educator workforce shortage in this state and that efforts need to be made to recruit, prepare, retain, and support the teaching profession while maintaining high-quality educators in our classrooms around the state.

(2) The purpose of sections 79-806 to 79-815 is to provide more flexibility in the certification of qualified educators for Nebraska schools and not to decrease

any requirements for certificates to teach, provide special services, and administer in Nebraska schools.

Source: Laws 1963, c. 491, § 1, p. 1569; Laws 1988, LB 802, § 24; R.S.1943, (1994), § 79-1247.03; Laws 1996, LB 900, § 436; Laws 2003, LB 685, § 6; Laws 2022, LB1218, § 11; Laws 2023, LB705, § 82.

Operative date September 2, 2023.

Cross References

Excellence in Teaching Act, see section 85-3101.

79-807 Terms, defined.

For purposes of sections 79-806 to 79-815, unless the context otherwise requires:

- (1) Board means the State Board of Education;
- (2) 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;
- (3) Commissioner means the Commissioner of Education;
- (4) Department means the State Department of Education;
- (5) 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;
- (6) 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 program process, and the placement process;
- (7) 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
- (8) 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; Laws 2022, LB1218, § 12; Laws 2023, LB705, § 83.
Operative date September 2, 2023.

Cross References

Special Education Act, see section 79-1110.

79-808 Teachers and administrators; certificates and permits; requirements; board; duties; advisory committees; expenses.

(1) The board shall establish, adopt, and promulgate appropriate rules, regulations, and procedures governing the issuance, renewal, conversion, suspension, and revocation of certificates and permits to teach, provide special services, and administer based upon (a) earned college credit in humanities, social and natural sciences, mathematics, or career and technical education, (b) earned college credit, or its equivalent in professional education, for particular teaching, special services, or administrative assignments, (c) criminal history record information if the applicant has not been a continuous Nebraska resident for five years immediately preceding application for the first issuance of a certificate, (d) human relations training, (e) successful teaching, administration, or provision of special services, and (f) moral, mental, and physical fitness for teaching, all in accordance with sound educational practices. Such rules, regulations, and procedures shall also provide for endorsement requirements to indicate areas of specialization on such certificates and permits. Such rules and regulations shall not require any test of basic skills.

(2) The board may issue a temporary certificate, valid for a period not to exceed two years, to any applicant for certification who has not completed the human relations training requirement.

(3) Members of any advisory committee established by the board to assist the board in teacher education and certification matters shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177. Each school district which has an employee who serves as a member of such committee and which is required to hire a person to replace such member during the member's attendance at meetings or activities of the committee or any subcommittee thereof shall be reimbursed from the Certification Fund for the expense it incurs from hiring a replacement. School districts may excuse employees who serve on such advisory committees from certain duties which conflict with any advisory committee duties.

Source: Laws 1963, c. 491, § 3, p. 1569; Laws 1981, LB 427, § 1; Laws 1984, LB 994, § 9; Laws 1985, LB 633, § 7; Laws 1986, LB 997, § 14; Laws 1987, LB 529, § 6; Laws 1989, LB 250, § 2; Laws 1990, LB 1090, § 20; Laws 1991, LB 511, § 57; Laws 1992, LB 245, § 62; Laws 1995, LB 123, § 2; R.S.Supp.,1995, § 79-1247.05; Laws 1996, LB 900, § 438; Laws 2001, LB 314, § 1; Laws 2003, LB 685, § 8; Laws 2009, LB547, § 2; Laws 2020, LB381, § 91; Laws 2023, LB705, § 84.
Operative date September 2, 2023.

79-809 Teachers' entry-level certificates or permits; qualifications.

In addition to the requirements in section 79-808, the maximum which the board may require for the issuance of any entry-level certificate or permit shall be that the applicant (1) has a baccalaureate degree that qualifies for a certificate to teach, (2) has satisfactorily completed, within two years of the date of application, an approved program at a standard institution of higher education, (3) has special education training, (4) has earned college credit in an approved program, at a standard institution of higher education, for which endorsement is sought, and (5) has paid a nonrefundable fee to the department as provided in section 79-810.

Source: Laws 1963, c. 491, § 4, p. 1570; Laws 1976, LB 833, § 1; Laws 1984, LB 994, § 10; Laws 1985, LB 633, § 8; Laws 1990, LB 1090, § 21; Laws 1994, LB 1310, § 10; Laws 1996, LB 754, § 8; R.S.1943, (1994), § 79-1247.06; Laws 1996, LB 900, § 439; Laws 2001, LB 314, § 2; Laws 2003, LB 685, § 9; Laws 2007, LB150, § 1; Laws 2023, LB705, § 85.
Operative date September 2, 2023.

79-816 Nebraska Teacher Apprenticeship Program; certificate or permit to teach; eligibility; requirements for completion; State Department of Education; Commissioner of Education; duties.

(1) The State Department of Education shall create and administer the Nebraska Teacher Apprenticeship Program. The purpose of the program is to help recruit and increase the number of teachers throughout the state by utilizing an apprenticeship model for training. The program shall provide for an applicant who successfully completes the program to obtain a certificate or permit issued by the Commissioner of Education. The department may work with standard institutions of higher education as defined in section 79-807, the Department of Labor, and other entities the State Department of Education deems necessary to develop and implement the program.

(2) An individual may apply for participation in the program if the individual (a) is an employee of a school approved or accredited by the State Department of Education or (b) has a contract to begin working for a school approved or accredited by the State Department of Education at the start of the school year for which the individual is applying for participation in the program.

(3) The department shall determine requirements for completion of the program by an applicant. The requirements shall include, but need not be limited to:

- (a) The completion of a one-year apprenticeship in a classroom;
- (b) A baccalaureate degree from a standard institution of higher education; and
- (c) Successful completion of a subject area examination and pedagogy examination created by the department as part of the program.

(4) The Commissioner of Education shall issue a certificate to teach as set forth pursuant to the rules and regulations adopted and promulgated pursuant to sections 79-806 to 79-815 to an applicant who successfully completes the program.

(5) It is the intent of the Legislature to appropriate one million dollars for fiscal year 2023-24 and each fiscal year thereafter from the Education Future Fund to the State Department of Education for the program.

Source: Laws 2023, LB705, § 51.
Operative date June 2, 2023.

79-816.01 Interstate Teacher Mobility Compact; rules and regulations.

The State Board of Education shall adopt and promulgate rules and regulations to provide for certification of teachers pursuant to the Interstate Teacher Mobility Compact.

Source: Laws 2023, LB298, § 6.
Effective date September 2, 2023.

Cross References

Interstate Teacher Mobility Compact, see section 79-1505.

(m) NEBRASKA TEACHER RECRUITMENT AND RETENTION ACT

79-8,111 Nebraska Teacher Recruitment and Retention Act, how cited.

Sections 79-8,111 to 79-8,118 shall be known and may be cited as the Nebraska Teacher Recruitment and Retention Act.

Source: Laws 2023, LB705, § 43.
Operative date June 2, 2023.
Termination date January 1, 2028.

79-8,112 Purpose of act.

The purpose of the Nebraska Teacher Recruitment and Retention Act is to provide financial incentives to recruit and retain teachers in Nebraska classrooms.

Source: Laws 2023, LB705, § 44.
Operative date June 2, 2023.
Termination date January 1, 2028.

79-8,113 Terms, defined.

For purposes of the Nebraska Teacher Recruitment and Retention Act:

- (1) Department means the State Department of Education;
- (2) Grant means a grant for teacher recruitment and retention payments under the Nebraska Teacher Recruitment and Retention Act; and
- (3) Teacher means a person who holds a valid certificate to teach in Nebraska issued by the Commissioner of Education and is employed in Nebraska for the instruction of students in elementary or high school grades.

Source: Laws 2023, LB705, § 45.
Operative date June 2, 2023.
Termination date January 1, 2028.

79-8,114 Grants; eligibility.

- (1) A teacher may apply to the department for a grant. The department shall not prioritize a grant based upon the school where the applicant teaches.

(2) A teacher is eligible to apply for:

(a) A retention one grant of two thousand five hundred dollars if the teacher has signed a contract to complete such teacher's second complete school year of full-time employment as a teacher at a Nebraska school in school year 2023-24, 2024-25, 2025-26, or 2026-27;

(b) A retention two grant of two thousand five hundred dollars if the teacher has signed a contract to complete such teacher's fourth complete school year of full-time employment as a teacher at a Nebraska school in school year 2023-24, 2024-25, 2025-26, or 2026-27;

(c) A retention three grant of two thousand five hundred dollars if the teacher has signed a contract to complete such teacher's sixth complete school year of full-time employment as a teacher at a Nebraska school in school year 2023-24, 2024-25, 2025-26, or 2026-27; and

(d)(i) A high-need retention grant of five thousand dollars if on or after June 2, 2023, a teacher:

(A) Obtains an endorsement in special education, mathematics, science, technology, or dual credit; and

(B) Signs a contract to complete a school year of full-time employment as a teacher at a Nebraska school in school year 2024-25, 2025-26, or 2026-27.

(ii) A teacher shall only be eligible to receive one high-need retention grant.

Source: Laws 2023, LB705, § 46.
Operative date June 2, 2023.
Termination date January 1, 2028.

79-8,115 Legislative intent.

It is the intent of the Legislature to encourage individual schools and school districts to adopt policies incentivizing teacher recruitment and retention through policies similar to the Nebraska Teacher Recruitment and Retention Act. Teachers at schools not adopting a recruitment and retention policy shall not be prohibited from receiving a grant under the Nebraska Teacher Recruitment and Retention Act.

Source: Laws 2023, LB705, § 47.
Operative date June 2, 2023.
Termination date January 1, 2028.

79-8,116 Appropriation; legislative intent.

It is the intent of the Legislature to appropriate ten million dollars from the Education Future Fund to carry out the Nebraska Teacher Recruitment and Retention Act.

Source: Laws 2023, LB705, § 48.
Operative date June 2, 2023.
Termination date January 1, 2028.

79-8,117 Rules and regulations.

The State Board of Education may adopt and promulgate rules and regulations to carry out the Nebraska Teacher Recruitment and Retention Act.

Source: Laws 2023, LB705, § 49.
Operative date June 2, 2023.
Termination date January 1, 2028.

79-8,118 Act, termination.

The Nebraska Teacher Recruitment and Retention Act terminates on January 1, 2028.

Source: Laws 2023, LB705, § 50.
Operative date June 2, 2023.
Termination date January 1, 2028.

(o) MASTER TEACHER PROGRAM ACT

79-8,124 Repealed. Laws 2023, LB705, § 135.
Operative date July 1, 2024.

79-8,125 Repealed. Laws 2023, LB705, § 135.
Operative date July 1, 2024.

79-8,126 Repealed. Laws 2023, LB705, § 135.
Operative date July 1, 2024.

79-8,127 Repealed. Laws 2023, LB705, § 135.
Operative date July 1, 2024.

79-8,128 Repealed. Laws 2023, LB705, § 135.
Operative date July 1, 2024.

79-8,129 Repealed. Laws 2023, LB705, § 135.
Operative date July 1, 2024.

79-8,130 Repealed. Laws 2023, LB705, § 135.
Operative date July 1, 2024.

79-8,131 Repealed. Laws 2023, LB705, § 135.
Operative date July 1, 2024.

(p) EXCELLENCE IN TEACHING ACT

79-8,132 Transferred to section 85-3101.

79-8,133 Transferred to section 85-3103.

79-8,134 Transferred to section 85-3104.

79-8,135 Transferred to section 85-3105.

79-8,137 Transferred to section 85-3106.

79-8,137.01 Transferred to section 85-3107.

79-8,137.02 Transferred to section 85-3108.

79-8,137.03 Transferred to section 85-3109.

79-8,137.04 Transferred to section 85-3110.

79-8,137.05 Transferred to section 85-3112.

79-8,138 Transferred to section 85-3113.

79-8,139 Transferred to section 85-3114.

79-8,140 Transferred to section 85-3115.

(s) ALTERNATIVE CERTIFICATION FOR QUALITY TEACHERS ACT

79-8,143 Act, how cited.

Sections 79-8,143 to 79-8,145.01 shall be known and may be cited as the Alternative Certification for Quality Teachers Act.

Source: Laws 2021, LB528, § 29; Laws 2023, LB705, § 86.
Operative date September 2, 2023.

79-8,145 Teacher education program; baccalaureate degree, graduate degree, or professional degree; forty-eight or more semester credit hours or associate degree; temporary certificate to teach; issuance; terms and conditions.

(1) In addition to certificates issued pursuant to sections 79-806 to 79-815:

(a) The Commissioner of Education shall, subject to the provisions of subsection (3) of this section, grant a temporary certificate to teach on a full-time basis to any applicant who:

(i) Has completed a teacher education program at a standard institution of higher education as defined in section 79-807; and

(ii) Currently possesses a certificate to teach in good standing from another state;

(b) The commissioner may, subject to subsection (3) of this section, grant a temporary certificate to teach on a full-time basis to any applicant who:

(i) Has earned and been awarded a baccalaureate degree, graduate degree, or professional degree from a college or university accredited by an accrediting organization recognized by the United States Department of Education; and

(ii) Has passed any appropriate subject area examination as designated by the State Board of Education; and

(c) Beginning in fiscal year 2024-25, the commissioner shall, subject to subsection (3) of this section, grant a temporary certificate to teach on a full-time basis to any applicant who:

(i) Has completed two years at a college or university accredited by an accrediting organization recognized by the United States Department of Education with at least forty-eight or more semester credit hours or obtained an associate degree from such a college or university;

(ii) Is employed as a paraprofessional or paraeducator at an elementary school, middle school, or high school in Nebraska; and

(iii) Has passed any appropriate subject area examination as designated by the State Board of Education.

(2) Any temporary certificate to teach issued pursuant to this section shall be valid for a period not to exceed two years, during which the holder of such temporary certificate must obtain a certificate to teach pursuant to sections 79-806 to 79-815 by completing the requirements contained in such sections.

(3) Issuance of a temporary certificate to teach pursuant to this section shall be subject to a criminal history record information check pursuant to section 79-814.01 and payment of any required fees.

Source: Laws 2021, LB528, § 31; Laws 2023, LB705, § 88.
Operative date September 2, 2023.

79-8,145.01 Alternative teacher certification program; temporary certificate to teach; issuance; terms and conditions.

(1) In addition to certificates issued pursuant to section 79-806 to 79-815, the Commissioner of Education shall, subject to subsections (2) and (3) of this section, issue an alternative certificate to teach on a full-time basis to any applicant who:

(a) Possesses a baccalaureate degree; and

(b) Has successfully completed an alternative teacher certification program operated by an organization that satisfies the following criteria:

(i) The organization operates in at least five states;

(ii) The organization has operated an alternative teacher certification program for at least ten years; and

(iii) The program requires candidates to pass a subject area examination and the pedagogy examination, known as the professional teaching knowledge examination, to receive a certificate under such program.

(2) A certificate issued under this section only authorizes an individual to teach the subject and educational levels for which the individual has successfully completed an alternative teacher certification program.

(3) Issuance of an alternative certificate to teach pursuant to this section shall be subject to a criminal history record information check pursuant to section 79-814.01 and payment of any required fees.

(4) An individual who receives an alternative certificate to teach pursuant to this section shall:

(a) Participate in a school district clinical experience for one semester in such individual's first semester of employment as a teacher pursuant to this section; and

(b) Be subject to the same certification criteria as an individual who completes a traditional teacher preparation program if converting the alternative certificate to teach to a standard certificate to teach.

Source: Laws 2023, LB705, § 87.
Operative date September 2, 2023.

ARTICLE 9

SCHOOL EMPLOYEES RETIREMENT SYSTEMS

(a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT

Section

79-902. Terms, defined.

79-920. Terms, defined; school plan, membership; participation; requirements; limitations on service.

79-926. Retirement system; members; statement of service record; requirements for prior service credit; exception; reemployment; military service; credit; effect; applicability.

(a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT

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 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 beginning date means, for purposes of the deferral of distributions and the commencement of mandatory distributions pursuant to section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder, April 1 of the year following the calendar year in which a member:

(a)(i) Terminated employment with all employers participating in the plan; and

(ii)(A) Attained at least seventy and one-half years of age for a member who attained seventy and one-half years of age on or before December 31, 2019;

(B) Attained at least seventy-two years of age for a member who attained seventy and one-half years of age on or after January 1, 2020, and prior to January 1, 2023;

(C) Attained at least seventy-three years of age for a member who attained seventy-two years of age after December 31, 2022, and seventy-three years of age prior to January 1, 2033; or

(D) Attained at least seventy-five years of age for a member who attained seventy-four years of age after December 31, 2032; or

(b)(i) Terminated employment with all employers participating in the plan; and

(ii) Otherwise reached the date specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder;

(28) 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;

(29) Retirement means qualifying for and accepting a school or disability retirement allowance granted under the School Employees Retirement Act;

(30) 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;

(31) Retirement board or board means the Public Employees Retirement Board;

(32) 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;

(33) Retirement system means the School Employees Retirement System of the State of Nebraska;

(34) Savings annuity means payments for life, made in equal monthly payments, derived from the accumulated contributions of a member;

(35) 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;

(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) 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;

(38) 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;

(39) Service annuity means payments for life, made in equal monthly installments, derived from appropriations made by the State of Nebraska to the retirement system;

(40) State deposit means the deposit by the state in the retirement system on behalf of any member;

(41) 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;

(42) 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;

(43) 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;

(44) 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;

(45)(a) 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.

(b) 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 is:

(i) Bona fide unpaid voluntary service or substitute service, provided on an intermittent basis. For purposes of this subdivision, (A) intermittent basis means service provided on a day-to-day basis that is not greater than eight days of service during a calendar month and (B) day of service means any length of substitute service or unpaid voluntary service provided during a single calendar day; or

(ii) As provided in section 79-920.

(c) A member shall not be deemed to have terminated employment if the board determines based on facts and circumstances (i) that a claimed termination was not a bona fide separation from service with the employer or (ii) that a member was compensated for a full contractual period when the member terminated prior to the end date of the contract.

(d) 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; and

(46) 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; Laws 2020, LB1054, § 7; Laws 2021, LB147, § 3; Laws 2022, LB700, § 5; Laws 2023, LB103, § 8.

Operative date May 2, 2023.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.
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.

79-920 Terms, defined; school plan, membership; participation; requirements; limitations on service.

(1) For purposes of this section:

(a) Association means the State Code Agency Teachers Association, or its equivalent successor, recognized by the State of Nebraska as the exclusive and sole collective-bargaining agent for all teachers other than temporary teachers employed by an agency of the State of Nebraska;

(b) Eligible school plan state employee means an individual who satisfies all school plan eligibility criteria and who is (i) an individual employed by the State Department of Education after July 1, 1989, as a state school official, (ii) an individual who is employed by any state agency in a position covered by the association and who is required to hold a certificate as defined in section 79-807 for the position in which such individual is employed, or (iii) an individual who is employed by any state agency not in a position covered by the association who is required to hold a certificate as defined in section 79-807 for the position in which such individual is employed;

(c) School plan means the School Employees Retirement System of the State of Nebraska;

(d) State agency school plan employer means the State Department of Education or another agency of the State of Nebraska with employees covered by the association; and

(e) State plan means the State Employees Retirement System of the State of Nebraska.

(2)(a) Except as provided in subsection (3) of this section, an individual shall become or remain a member of the school plan if:

(i) Such individual is or was previously a school employee or was employed in an out-of-state school district or a Class V school district; and

(ii) Such individual becomes an eligible school plan state employee with a state agency school plan employer.

(b) An individual who is required to participate in the school plan pursuant to subdivision (2)(a) of this section shall not be deemed to have terminated employment for school plan purposes if such individual subsequently provides service to any employer participating in the school plan, including any school district or educational service unit, or any state agency school plan employer, within one hundred eighty days after ceasing employment except for intermittent voluntary or substitute service at a school district or an educational service unit as described in subdivision (45)(b)(i) of section 79-902.

(c) An individual who is required to participate in the school plan pursuant to subdivision (2)(a) of this section shall not render any service to another agency of the State of Nebraska within one hundred twenty days after ceasing employment.

(3)(a) An individual shall participate in the state plan if:

(i) The individual has never previously participated in the school plan while employed as an eligible school plan state employee with a state agency school plan employer;

(ii) The individual terminated employment with a school district or an educational service unit participating in the school plan and retired or took a distribution pursuant to the School Employees Retirement Act; and

(iii) The individual's employment as an eligible school plan state employee with a state agency school plan employer began or will begin within one hundred eighty days after termination of employment with the school district or educational service unit.

(b) An individual who is required to participate in the state plan pursuant to subdivision (3)(a) of this section shall not be deemed to have terminated employment for state plan purposes if such individual subsequently provides service to any employer participating in the state plan, including any state agency school plan employer or an agency of the State of Nebraska, within one hundred twenty days after ceasing employment. No such individual may provide substitute or voluntary service as defined in subdivision (45)(b)(i) of section 79-902 to any employer participating in the school plan for at least one hundred twenty days after ceasing employment.

(4) An individual who previously elected to participate in the school plan prior to March 4, 2022, while employed as a state school official and who terminated employment and retired or took a distribution pursuant to the School Employees Retirement Act, shall not render any service to:

(a) A school district or an educational service unit participating in the school plan or a state agency school plan employer within one hundred eighty days after terminating employment except as described in subdivision (45)(b)(i) of section 79-902; or

(b) Another agency of the State of Nebraska within one hundred twenty days after terminating employment.

Source: Laws 1980, LB 818, § 2; Laws 1986, LB 325, § 13; Laws 1986, LB 311, § 22; Laws 1989, LB 506, § 12; R.S.1943, (1994), § 79-1565; Laws 1996, LB 900, § 555; Laws 1997, LB 623, § 15; Laws 2010, LB950, § 14; Laws 2011, LB509, § 22; Laws 2022, LB700, § 6; Laws 2023, LB103, § 9.

Operative date May 2, 2023.

79-926 Retirement system; members; statement of service record; requirements for prior service credit; exception; reemployment; military service; credit; effect; applicability.

(1) Under such rules and regulations as the retirement board may adopt and promulgate, each person who was a school employee at any time prior to the establishment of the retirement system and who becomes a member of the retirement system shall, within two years after becoming a member, file a detailed statement of all service as a school employee rendered by him or her prior to the date of establishment of the retirement system. In order to qualify for prior service credit toward a service annuity, a school employee, unless temporarily out of service for further professional education, for service in the armed forces, or for temporary disability, must have completed four years of service on a part-time or full-time basis during the five calendar years immediately preceding July 1, 1945, or have completed eighteen years out of the last twenty-five years prior to July 1, 1945, full time or part time, and two years out of the five years immediately preceding July 1, 1945, full time or part time, or such school employee must complete, unless temporarily out of service for further professional education, for service in the armed forces, or for temporary disability, four years of service within the five calendar years immediately following July 1, 1945. In order to qualify for prior service credit toward a service annuity, a school employee who becomes a member of the retirement system on or before September 30, 1951, or from July 1, 1945, to the date of becoming a member shall have been continuously employed in a public school in Nebraska operating under any other regularly established retirement or pension system.

(2)(a) Any school employee who is reemployed pursuant to 38 U.S.C. 4301 et seq., shall be treated as not having incurred a break in service by reason of his or her period of military service. Such military service shall be credited for purposes of determining the nonforfeitability of the member's accrued benefits and the accrual of benefits under the plan.

(b) The employer shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service. To satisfy the liability, the employer shall pay to the retirement system an amount equal to:

(i) The sum of the member and employer contributions that would have been paid during such period of military service; and

(ii) Any actuarial costs necessary to fund the obligation of the plan to provide benefits based upon such period of military service. For the purposes of

determining the amount of such liability and obligation of the plan, earnings and forfeitures, gains and losses, regular interest, or interest credits that would have accrued on the member and employer contributions that are paid by the employer pursuant to this section shall not be included.

(c) The amount required in subdivision (b) of this subsection shall be paid to the retirement system as soon as reasonably practicable following the date of reemployment, but must be paid within eighteen months of the date the board notifies the employer of the amount due. If the employer fails to pay the required amount within such eighteen-month period, then the employer is also responsible for any actuarial costs and interest on actuarial costs that accrue from eighteen months after the date the employer is notified by the board until the date the amount is paid.

(d) The retirement board may adopt and promulgate rules and regulations to carry out this subsection, including, but not limited to, rules and regulations on:

- (i) How and when the member and employer must notify the retirement system of a period of military service;
- (ii) The acceptable methods of payment;
- (iii) Determining the service and compensation upon which the contributions must be made;
- (iv) Accelerating the payment from the employer due to unforeseen circumstances that occur before payment is made pursuant to this section, including, but not limited to, the member's termination or retirement or the employer's reorganization, consolidation, merger, or closing; and

(v) The documentation required to substantiate that the member was reemployed pursuant to 38 U.S.C. 4301 et seq.

(3) This section applies to military service that falls within the definition of uniformed services under 38 U.S.C. 4301 et seq., and includes (a) preparation periods prior to military service, (b) periods during military service, (c) periods of rest and recovery authorized by 38 U.S.C. 4301 et seq., after military service, (d) periods of federal military service, and (e) periods during active service of the state provided pursuant to sections 55-101 to 55-181.

Source: Laws 1945, c. 219, § 15, p. 643; R.S.Supp.,1947, § 79-2915; Laws 1949, c. 256, § 449, p. 845; Laws 1951, c. 291, § 2, p. 965; Laws 1953, c. 316, § 1, p. 1048; Laws 1975, LB 236, § 1; Laws 1992, LB 1001, § 33; Laws 1996, LB 847, § 30; R.S.1943, (1994), § 79-1515; Laws 1996, LB 900, § 561; Laws 1998, LB 1191, § 50; Laws 2011, LB509, § 23; Laws 2017, LB415, § 27; Laws 2018, LB1005, § 25; Laws 2023, LB103, § 10.
Operative date May 2, 2023.

ARTICLE 10

SCHOOL TAXATION, FINANCE, AND FACILITIES

(a) TAX EQUITY AND EDUCATIONAL OPPORTUNITIES SUPPORT ACT

Section	
79-1001.	Act, how cited.
79-1006.	Foundation aid; calculation.
79-1009.	Option school districts; net option funding; calculation.
79-1017.01.	Local system formula resources; amounts included.
79-1021.	Education Future Fund; created; use; priority; investment; fund transfers.

- Section
 79-1022. Distribution of income tax receipts and state aid; effect on budget.
 79-1022.02. School fiscal year 2023-24 certifications null and void.
 79-1023. School district; general fund budget of expenditures; limitation; department; certification.
 79-1027. Budget; restrictions.
 79-1031.01. Appropriations Committee; duties.
 79-1031.02. School district; department; reports.

(b) SCHOOL FUNDS

- 79-1054. State Board of Education; establish innovation grant programs and improvement grant programs; application; contents; department; duties; report; Department of Education Innovative Grant Fund; created; use; investment.

(m) EXTRAORDINARY INCREASE IN SPECIAL EDUCATION EXPENDITURES ACT

- 79-10,148. Extraordinary Increase in Special Education Expenditures Act, how cited.
 79-10,149. Legislative findings.
 79-10,150. Special education expenditures; extraordinary increase, expected; application for payment; procedure; payment, how made.
 79-10,151. Payments; funding.

(a) TAX EQUITY AND EDUCATIONAL OPPORTUNITIES SUPPORT ACT

79-1001 Act, how cited.

Sections 79-1001 to 79-1033 shall be known and may be cited as the Tax Equity and Educational Opportunities Support Act.

Source: Laws 1990, LB 1059, § 1; Laws 1995, LB 542, § 1; Laws 1995, LB 840, § 3; R.S.Supp.,1995, § 79-3801; Laws 1996, LB 900, § 652; Laws 1996, LB 1050, § 10; Laws 1997, LB 806, § 29; Laws 1998, LB 1134, § 1; Laws 1998, LB 1219, § 13; Laws 1999, LB 149, § 1; Laws 2001, LB 833, § 3; Laws 2002, LB 898, § 2; Laws 2004, LB 1091, § 8; Laws 2006, LB 1024, § 71; Laws 2007, LB641, § 12; Laws 2008, LB988, § 8; Laws 2009, LB545, § 3; Laws 2009, First Spec. Sess., LB5, § 2; Laws 2011, LB18, § 1; Laws 2011, LB235, § 4; Laws 2015, LB519, § 10; Laws 2016, LB1067, § 31; Laws 2023, LB583, § 1.
 Effective date June 1, 2023.

79-1006 Foundation aid; calculation.

(1) For school fiscal year 2023-24 and each school fiscal year thereafter, the department shall determine the foundation aid to be paid to each school district in accordance with subsection (2) of this section.

(2) The foundation aid to be paid to each school district in each school fiscal year shall equal one thousand five hundred dollars multiplied by the number of formula students for such school district.

(3) Twenty-four percent of the total amount of foundation aid paid each school fiscal year shall be paid from money appropriated from the Education Future Fund.

(4) For school fiscal years 2023-24 and 2024-25, one hundred percent of foundation aid shall be included as a formula resource pursuant to section 79-1017.01. For school fiscal year 2025-26 and each school fiscal year thereaf-

ter, sixty percent of foundation aid shall be included as a formula resource pursuant to section 79-1017.01.

Source: Laws 2023, LB583, § 3.
Effective date June 1, 2023.

79-1009 Option school districts; net option funding; calculation.

(1)(a) A district shall receive net option funding if (i) option students as defined in section 79-233 were actually enrolled in the school year immediately preceding the school year in which the aid is to be paid, (ii) option students as defined in such section will be enrolled in the school year in which the aid is to be paid as converted contract option students, or (iii) for the calculation of aid for school fiscal year 2017-18 for school districts that are members of a learning community, open enrollment students were actually enrolled for school year 2016-17 pursuant to section 79-2110.

(b) The determination of the net number of option students shall be based on (i) the number of students enrolled in the district as option students and the number of students residing in the district but enrolled in another district as option students as of the day of the fall membership count pursuant to section 79-528, for the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, (ii) the number of option students that will be enrolled in the district or enrolled in another district as converted contract option students for the fiscal year in which the aid is to be paid, and (iii) for the calculation of aid for school fiscal year 2017-18 for school districts that are members of a learning community, the number of students enrolled in the district as open enrollment students and the number of students residing in the district but enrolled in another district as open enrollment students as of the day of the fall membership count pursuant to section 79-528 for school fiscal year 2016-17.

(c) Except as otherwise provided in this subsection, net number of option students means the difference of the number of option students enrolled in the district minus the number of students residing in the district but enrolled in another district as option students. For purposes of the calculation of aid for school fiscal year 2017-18 for school districts that are members of a learning community, net number of option students means the difference of the number of students residing in another school district who are option students or open enrollment students enrolled in the district minus the number of students residing in the district but enrolled in another district as option students or open enrollment students.

(2)(a) For school fiscal years prior to school fiscal year 2023-24, net option funding shall be the product of the net number of option students multiplied by the statewide average basic funding per formula student.

(b) For school fiscal year 2023-24 and each school fiscal year thereafter, net option funding shall be the product of the net number of option students multiplied by the difference of the statewide average basic funding per formula student minus the amount of foundation aid paid per formula student pursuant to section 79-1006.

(3) A district's net option funding shall be zero if the calculation produces a negative result.

Payments made under this section for school fiscal years prior to school fiscal year 2017-18 shall be made from the funds to be disbursed under section 79-1005.01.

Such payments shall go directly to the option school district but shall count as a formula resource for the local system.

Source: Laws 1996, LB 1050, § 18; Laws 1997, LB 806, § 40; Laws 1998, Spec. Sess., LB 1, § 21; Laws 1999, LB 813, § 21; Laws 2001, LB 797, § 22; Laws 2001, LB 833, § 5; Laws 2002, LB 898, § 10; Laws 2004, LB 1093, § 6; Laws 2008, LB988, § 35; Laws 2011, LB235, § 14; Laws 2016, LB1067, § 39; Laws 2017, LB409, § 2; Laws 2023, LB583, § 2.
Effective date June 1, 2023.

79-1017.01 Local system formula resources; amounts included.

(1) For state aid calculated for each school fiscal year prior to school fiscal year 2023-24, 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.

(2) For state aid calculated for school fiscal year 2023-24 and each school fiscal year thereafter, 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, community achievement plan aid determined pursuant to section 79-1005, and a percentage of foundation aid determined pursuant to section 79-1006, 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; Laws 2023, LB583, § 4.
Effective date June 1, 2023.

79-1021 Education Future Fund; created; use; priority; investment; fund transfers.

(1) The Education Future Fund is created. The fund shall be administered by the department and shall consist of money transferred to the fund 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 only for the following purposes, in order of priority:

(a) To fully fund equalization aid under the Tax Equity and Educational Opportunities Support Act;

(b) To fund reimbursements related to special education under section 79-1142;

(c) To fund foundation aid under the Tax Equity and Educational Opportunities Support Act;

(d) To increase funding for school districts in a way that results in direct property tax relief, which means a dollar-for-dollar replacement of property taxes by a state funding source;

(e) To provide funding for a grant program created by the Legislature to address teacher turnover rates and keep existing teachers in classrooms;

(f) To provide funding to increase career and technical educational classroom opportunities for students. Such funding must provide students with the academic and technical skills, knowledge, and training necessary to succeed in future careers;

(g) To provide funding for a grant program created by the Legislature to provide students the opportunity to have a mentor who will continuously engage with the student directly to aid in the student's professional growth and give ongoing support and encouragement to the student;

(h) To provide funding for extraordinary increases in special education expenditures to allow school districts with large, unexpected special education expenditures to more easily meet the needs of all students; and

(i) To provide funding to help recruit teachers throughout the state by utilizing apprenticeships through a teacher apprenticeship program and an alternative certification process.

(3)(a) The State Treasurer shall transfer one billion dollars from the General Fund to the Education Future Fund in fiscal year 2023-24, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(b) The State Treasurer shall transfer two hundred fifty million dollars from the General Fund to the Education Future Fund in fiscal year 2024-25, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(c) It is the intent of the Legislature that two hundred fifty million dollars be transferred from the General Fund to the Education Future Fund in fiscal year 2025-26 and each fiscal year thereafter.

Source: Laws 1990, LB 1059, § 12; Laws 1994, LB 1066, § 94; Laws 1995, LB 840, § 8; R.S.Supp., 1995, § 79-3812; Laws 1996, LB 900, § 667; Laws 1996, LB 1050, § 29; Laws 1998, Spec. Sess., LB 1, § 27; Laws 2023, LB705, § 89; Laws 2023, LB818, § 22.

Note: Changes made by LB705 became operative June 2, 2023. Changes made by LB818 became effective May 25, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

79-1022 Distribution of income tax receipts and state aid; effect on budget.

(1) On or before June 15, 2023, 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 15, 2023, 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; Laws 2020, LB880, § 1; Laws 2023, LB583, § 5.
Effective date June 1, 2023.

79-1022.02 School fiscal year 2023-24 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 June 1, 2023, for school fiscal year 2023-24 are 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; Laws 2020, LB880, § 2; Laws 2023, LB583, § 6.
Effective date June 1, 2023.

79-1023 School district; general fund budget of expenditures; limitation; department; certification.

(1) On or before June 15, 2023, 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 30 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; Laws 2020, LB880, § 3; Laws 2021, LB644, § 23; Laws 2023, LB583, § 7.
Effective date June 1, 2023.

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 15, 2023, 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; Laws 2020, LB880, § 4; Laws 2023, LB583, § 8.

Effective date June 1, 2023.

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 15, 2023, 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; Laws 2020, LB880, § 5; Laws 2023, LB583, § 9. Effective date June 1, 2023.

79-1031.02 School district; department; reports.

(1) For school fiscal year 2023-24 and each school fiscal year thereafter, each school district shall submit a report to the department that includes the following information:

(a) The amount by which the school district reduced its property tax request for such school fiscal year, if any such reduction occurred; and

(b) Other information as required by the department.

(2) The department shall compile the information received from school districts under subsection (1) of this section and shall submit a comprehensive report of all such information annually to the Governor, the chairperson of the Education Committee of the Legislature, and the Clerk of the Legislature. The report submitted to the committee and the Clerk of the Legislature shall be submitted electronically.

Source: Laws 2023, LB583, § 10.
Effective date June 1, 2023.

(b) SCHOOL FUNDS

79-1054 State Board of Education; establish innovation grant programs and improvement grant programs; application; contents; department; duties; report; Department of Education Innovative Grant Fund; created; use; investment.

(1)(a) This subsection applies until July 1, 2024.

(b) The State Board of Education shall establish a competitive innovation grant program with funding from the Nebraska Education Improvement Fund pursuant to section 79-3501. Grantees shall be a school district, an educational service unit, or a combination of entities that includes at least one school district or educational service unit. For grantees that consist of a combination of entities, a participating school district or educational service unit shall be designated to act as the fiscal agent and administer the program funded by the grant. The state board shall only award grants pursuant to applications that the state board deems to be sufficiently innovative and to have a high chance of success.

(c) An application for a grant pursuant to this subsection shall describe:

(i) Specific measurable objectives for improving education outcomes for early childhood students, elementary students, middle school students, or high school students or for improving the transitions between any successive stages of education or between education and the workforce;

(ii) The method for annually evaluating progress toward a measurable objective, with a summative evaluation of progress submitted to the state board and electronically to the Education Committee of the Legislature on or before July 1, 2019;

(iii) The potential for the project to be both scalable and replicable; and
(iv) Any cost savings that could be achieved by reductions in other programs if the funded program is successful.

(d) Based on evaluations received on or before July 1, 2019, for each grant, the State Board of Education shall recommend the grant project as:

- (i) Representing a best practice;
- (ii) A model for a state-supported program; or
- (iii) A local issue for further study.

(e) On or before December 1, 2017, and on or before December 1 of each year thereafter, the state board shall electronically submit a report to the Clerk of the Legislature on all such grants, including, but not limited to, the results of the evaluations for each grant. The state board may adopt and promulgate rules and regulations to carry out this subsection, including, but not limited to, application procedures, selection procedures, and annual evaluation reporting procedures.

(2)(a) This subsection applies beginning July 1, 2024.

(b) The State Board of Education shall establish innovation grant programs in areas, including, but not limited to, (i) mental health first aid, (ii) early literacy, (iii) quality instructional materials, (iv) personalized learning through digital education, or (v) other innovation areas identified by the board. It is the intent of the Legislature that such grant programs shall be funded using lottery funds under section 79-3501. Grantees shall be a school district, an educational service unit, or a combination of entities that includes at least one school district or educational service unit.

(c) An application for participating in an innovation grant pursuant to this subsection shall describe:

(i) Specific measurable objectives for improving education outcomes for early childhood students, elementary students, middle school students, or high school students or for improving the transitions between any successive stages of education or between education and the workforce;

(ii) Participation in a method for annually evaluating progress toward a measurable objective, with a summative evaluation of progress submitted to the state board and electronically to the Education Committee of the Legislature on or before July 1 of each year;

(iii) The potential for the grant program to be both scalable and replicable; and

(iv) Any cost savings that could be achieved by reductions in other programs if the grant program is successful.

(d) Based on evaluations received on or before July 1 of each year for each grant program, the State Board of Education shall recommend the grant program as:

- (i) Representing a best practice;
- (ii) A model for a state-supported program; or
- (iii) A local issue for further study.

(e) On or before December 1 of each year, the state board shall electronically submit a report to the Clerk of the Legislature on all such grant programs, including, but not limited to, the results of the evaluations for each grant

program. The state board may adopt and promulgate rules and regulations to carry out this subsection, including, but not limited to, application procedures, selection procedures, and annual evaluation reporting procedures.

(3)(a) This subsection applies beginning July 1, 2024.

(b) The State Board of Education shall establish an improvement grant program in areas including, but not limited to, (i) teacher recruitment and retention, (ii) improvement for schools and school districts, (iii) improvement in student performance in the subject areas of reading and mathematics, and (iv) other improvement areas identified by the state board. Such grants shall be funded using lottery funds under section 79-3501.

(c) On or before December 1 of each calendar year, the state board shall electronically submit a report to the Clerk of the Legislature on all such grant programs, including, but not limited to, the recipients of the programs and evaluations of the effectiveness of each grant program. The state board may adopt and promulgate rules and regulations to carry out this subsection.

(4)(a) This subsection applies beginning January 1, 2024.

(b) For purposes of this subsection, learning platform means a three-dimensional, game-based learning platform for use by middle school and high school students.

(c)(i) The State Board of Education shall establish an innovation grant program to procure or purchase an annual license for learning platforms for use in schools to engage students in coursework and careers in science, technology, engineering, entrepreneurship, and mathematics. Such grants shall be funded using lottery funds pursuant to section 79-3501.

(ii) The State Board of Education shall establish standards that a learning platform shall meet in the subject areas of chemistry and physical science, business, and mathematics. The state board shall develop a plan related to how the state board shall prioritize the grant applications.

(iii) A developer may apply to the State Department of Education on forms and in a manner prescribed by the department for a grant under this subsection for a learning platform that:

(A) Is designed to teach information related to chemistry and physical science, business, or mathematics;

(B) Aligns with the standards established by the state board relating to chemistry and physical science, business, or mathematics;

(C) Connects such standards with real-world technologies and applications;

(D) Highlights science, technology, engineering, entrepreneurship, and mathematics career pathways in Nebraska; and

(E) Meets any additional requirements set out by the State Board of Education.

(iv) Any developer that receives a grant under this subsection shall provide access to and use of its learning platform to all Nebraska school districts.

(v) Any grant awarded pursuant to this subsection shall be awarded by July 1 of each year.

(d) On or before December 1 of each calendar year, the state board shall electronically submit a report to the Clerk of the Legislature on the grant program, including, but not limited to, the recipients of the program and evaluations of the effectiveness of the grant program. The State Board of

Education may adopt and promulgate rules and regulations to carry out this subsection.

(5)(a) The Department of Education Innovative Grant Fund is created. The fund shall be administered by the State Department of Education and shall consist of transfers pursuant to section 79-3501, repayments of grant funds, and interest payments received in the course of administering this section. The fund shall be used to carry out this section. 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) Of the ten percent of funds transferred to the fund pursuant to section 79-3501, eight and three-fourths percent shall be used for innovation grants pursuant to subsection (4) of this section and the remaining one and one-fourth percent shall be used for innovation and improvement grants pursuant to subsections (2) and (3) of this section.

Source: Laws 2015, LB519, § 2; Laws 2017, LB512, § 16; Laws 2022, LB852, § 3; Laws 2023, LB705, § 90.
Operative date July 1, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(m) EXTRAORDINARY INCREASE IN SPECIAL
EDUCATION EXPENDITURES ACT

79-10,148 Extraordinary Increase in Special Education Expenditures Act, how cited.

Sections 79-10,148 to 79-10,151 shall be known and may be cited as the Extraordinary Increase in Special Education Expenditures Act.

Source: Laws 2023, LB705, § 39.
Operative date June 2, 2023.

79-10,149 Legislative findings.

The Legislature finds that:

(1) The cost to educate students with special needs has increased in recent years;

(2) Special education expenditures can be unpredictable for school districts, particularly for school districts with small student populations, and can change dramatically from year to year as students with varying needs join or leave the school district;

(3) School districts may have difficulty covering large unexpected special education expenditures; and

(4) Assisting school districts upfront with large, unexpected special education expenditures allows such school districts to more easily meet the needs of all students.

Source: Laws 2023, LB705, § 40.
Operative date June 2, 2023.

79-10,150 Special education expenditures; extraordinary increase, expected; application for payment; procedure; payment, how made.

(1) On or before January 15 of each school fiscal year, a school district with expected special education expenditures that total (a) at least fifty thousand dollars annually or (b) one-half percent or more of such school district's annual budget, whichever is greater, may submit an application as prescribed by the State Department of Education to the department for a payment from the Education Future Fund to cover an extraordinary increase in special education expenditures pursuant to the requirements of this section. Such application shall include the special education expenditures of the applicant school district as of the immediately preceding December 31 for the school fiscal year in which the application is submitted.

(2) The department shall divide the special education expenditures for the school fiscal year immediately preceding the school fiscal year in which an application is submitted by two and multiply the result by one hundred seven percent for each applicant school district.

(3) Each applicant school district shall qualify for a maximum payment equal to the difference of the special education expenditures for the current school fiscal year submitted pursuant to subsection (1) of this section minus the amount calculated pursuant to subsection (2) of this section for such school district for such school fiscal year.

(4) The department shall make a payment to each applicant school district on or before January 31 for the school fiscal year in which the application is submitted. Such payment shall equal the maximum payment determined pursuant to subsection (3) of this section, except that if the sum of all maximum payments for applicant school districts for such school fiscal year exceeds the available balance for such purpose in the Education Future Fund, each payment shall be reduced proportionally so that the sum of all payments for applicant school districts for such school fiscal year equals the available balance for such purpose in the fund.

Source: Laws 2023, LB705, § 41.
Operative date June 2, 2023.

79-10,151 Payments; funding.

The department shall make a payment to each qualifying applicant school district from the Education Future Fund pursuant to section 79-10,150 for an extraordinary increase in special education expenditures. The department shall reimburse the fund for each such payment from the appropriation for special education and support services reimbursements pursuant to section 79-1142 in the school fiscal year immediately following the school fiscal year in which each such payment was made. It is the intent of the Legislature to appropriate up to two million five hundred thousand dollars from the Education Future Fund for fiscal year 2023-24 and each year thereafter for payments to qualifying applicants.

Source: Laws 2023, LB705, § 42.
Operative date June 2, 2023.

ARTICLE 11

SPECIAL POPULATIONS AND SERVICES

(a) EARLY CHILDHOOD EDUCATION

Section

79-1104.02. Early Childhood Education Endowment Cash Fund; use; grants; program requirements.

(c) SPECIAL EDUCATION

SUBPART (i)—SPECIAL EDUCATION ACT

79-1142. Department; reimbursement for special education programs and support services; to whom; manner; limitations; transfers.

(n) DYSLEXIA

79-11,157.01. School district; provide information relating to dyslexia; State Department of Education; duties.

(o) BEHAVIORAL HEALTH

79-11,160. Mental health first aid training program; establish; training requirements; lottery funds; use.

(a) EARLY CHILDHOOD EDUCATION

79-1104.02 Early Childhood Education Endowment Cash Fund; use; grants; program requirements.

(1) The Early Childhood Education Endowment Cash Fund, consisting of the interest, earnings, and proceeds from the Early Childhood Education Endowment Fund and the earnings from the private endowment created by the endowment provider and any additional private donations made directly thereto, shall be used exclusively to provide funds for the Early Childhood Education Grant Program for at-risk children from birth to age three as set forth in this section.

(2) Grants provided by this section shall be to school districts and cooperatives of school districts for early childhood education programs for at-risk children from birth to age three, as determined by the board of trustees pursuant to criteria set forth by the board of trustees. School districts and cooperatives of school districts may establish agreements with other public and private entities to provide services or operate programs.

(3) Each program selected for a grant pursuant to this section may be provided a grant for up to one-half of the total budget of such program per year. Programs selected for grant awards may receive continuation grants subject to the availability of funding and the submission of a continuation plan which meets the requirements of the board of trustees.

(4) Programs shall be funded across the state and in urban and rural areas to the fullest extent possible.

(5) Each program selected for a grant pursuant to this section shall meet the requirements described in subsection (2) of section 79-1103, except that the periodic evaluations of the program are to be specified by the board of trustees and the programs need not include continuity with programs in kindergarten and elementary grades and need not include instructional hours that are similar to or less than the instructional hours for kindergarten. The programs may continue to serve at-risk children who turn three years of age during the

program year until the end of the program year, as specified by the board of trustees.

(6) The board of trustees may issue grants to early childhood education programs entering into agreements pursuant to subsection (2) of this section with child care providers if the child care provider enrolls in the quality rating and improvement system described in the Step Up to Quality Child Care Act prior to the beginning of the initial grant period. Child care providers shall participate in training approved by the Early Childhood Training Center which is needed for participation or advancement in the quality rating and improvement system.

(7) The board of trustees shall require child care providers in programs receiving grants under this section to obtain a step three rating or higher on the quality scale described in section 71-1956 within three years of the starting date of the initial grant period to continue funding the program. The board of trustees shall require the child care provider to maintain a step three rating or higher on such quality scale after three years from the starting date of the initial grant period to continue funding the program.

(8) If a child care provider fails to achieve or maintain a step three rating or higher on the quality scale described in such section after three years from the starting date of the initial grant period, the child care provider shall obtain and maintain the step three rating on such quality scale before any new or continuing grants may be issued for programs in which such child care provider participates.

(9) Any school district entering into agreements pursuant to subsection (2) of this section with child care providers must employ or contract with, either directly or indirectly, a program coordinator holding a certificate as defined in section 79-807.

(10) Up to ten percent of the total amount deposited in the Early Childhood Education Endowment Cash Fund each fiscal year may be reserved by the board of trustees for evaluation and technical assistance for the Early Childhood Education Grant Program with respect to programs for at-risk children from birth to age three.

Source: Laws 2006, LB 1256, § 5; Laws 2008, LB1153, § 5; Laws 2013, LB410, § 11; Laws 2013, LB495, § 3; Laws 2015, LB547, § 2; Laws 2023, LB705, § 91.
Operative date July 1, 2023.

Cross References

Step Up to Quality Child Care Act, see section 71-1952.

(c) SPECIAL EDUCATION

SUBPART (i)—SPECIAL EDUCATION ACT

79-1142 Department; reimbursement for special education programs and support services; to whom; manner; limitations; transfers.

(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) Except as provided in subsection (6) of this section, 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 eighty percent of the total allowable excess costs for all special education programs and support services. 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 in the preceding school fiscal year.

(4)(a) The payments shall be made by the department to the school district of residence, cooperative of school districts, or educational service unit each school 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 and the Education Future Fund for payment purposes. The director shall, upon receiving such certification, draw warrants against such funds as appropriated.

(b) If the General Fund appropriations for special education approved by the Legislature, minus the amounts set aside pursuant to subsection (5) of this section, are insufficient to reimburse eighty percent of the total allowable excess costs for all special education programs and support services for any school fiscal year:

(i) Such allowable excess costs shall be reimbursed from the General Fund appropriations for special education approved by the Legislature, minus the amounts set aside pursuant to subsection (5) of this section, on a pro rata basis at the maximum rate of reimbursement such appropriations will allow as determined by the department; and

(ii) The remainder of the eighty percent reimbursement of such allowable excess costs shall be paid from the Education Future Fund.

(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 reim-

bursments. 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.

(6) For each school district that received a payment pursuant to the Extraordinary Increase in Special Education Expenditures Act in the school fiscal year for which special education expenditures were reimbursed pursuant to subsection (3) of this section, an amount equal to such payment shall be subtracted from the reimbursement calculated pursuant to subsection (3) of this section and such amount shall be transferred to the Education Future Fund.

(7) On or before November 15 of each year, the department shall submit to the Governor, the Appropriations Committee of the Legislature, and the Education Committee of the Legislature:

(a) The total allowable excess costs for all special education programs and support services for all school districts, cooperatives of school districts, and educational service units; and

(b) The total reimbursements requested pursuant to subsection (5) of this section for the most recently completed school 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; Laws 2023, LB583, § 11; Laws 2023, LB705, § 92.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB583, section 11, with LB705, section 92, to reflect all amendments.

Note: Changes made by LB583 became effective June 1, 2023. Changes made by LB705 became operative June 2, 2023.

Cross References

Extraordinary Increase in Special Education Expenditures Act, see section 79-10,148.

Option enrollment program, determination of reimbursement, see section 79-246.

(n) DYSLEXIA

79-11,157.01 School district; provide information relating to dyslexia; State Department of Education; duties.

(1) On or before July 1 of each year, each school district shall provide to the State Department of Education, on forms prescribed by the department, information relating to dyslexia. Such information shall include, but not be limited to, the number of students in each public school in such district:

(a) Tested for a specific learning disability in the area of reading, including tests that identify characteristics of dyslexia and the results of such tests;

(b) Identified as having a reading issue, including dyslexia, pursuant to the assessment administered under the Nebraska Reading Improvement Act; and

(c) Identified as described in subdivision (b) of this subsection that have shown growth on the measure used to identify the reading issue.

(2) The State Department of Education shall annually compile the information received pursuant to subsection (1) of this section and provide a report on such information electronically to the Legislature on or before September 1 of each year.

(3) The State Board of Education may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2023, LB298, § 1.

Effective date September 2, 2023.

Cross References

Nebraska Reading Improvement Act, see section 79-2601.

(o) BEHAVIORAL HEALTH

79-11,160 Mental health first aid training program; establish; training requirements; lottery funds; use.

(1) The State Department of Education shall establish a mental health first aid training program for teachers and other personnel employed by a school district or an educational service unit participating in a grant under subsection (2) of section 79-1054.

(2) The mental health first aid training is to be delivered by trainers who are properly certified by a national organization for behavioral health to provide training meeting the requirements of this section. The program shall also provide an opportunity for teachers and other designated personnel to complete the training necessary to become certified by a national organization for behavioral health to provide mental health first aid training to other teachers and designated personnel.

(3) Mental health first aid training shall include training on:

(a) The skills, resources, and knowledge necessary to assist students in crisis to connect with appropriate local mental health care services;

(b) Mental health resources, including the location of local community mental health centers; and

(c) Action plans and protocols for referral to such resources.

(4) A recipient of mental health first aid training shall also receive instruction in preparation to:

(a) Safely de-escalate crisis situations;

(b) Recognize the signs and symptoms of mental illness, including such psychiatric conditions as major clinical depression and anxiety disorders; and

(c) Timely refer a student to mental health services in the early stages of the development of a mental disorder to avoid subsequent behavioral health care and to enhance the effectiveness of mental health services. Except as provided in section 43-2101, any such referral shall be approved by the student's parent or guardian.

(5) It is the intent of the Legislature that the mental health first aid training program under this section shall be funded using lottery funds under section 79-3501.

Source: Laws 2022, LB852, § 2; Laws 2023, LB705, § 93.
Operative date July 1, 2024.

ARTICLE 13

EDUCATIONAL TECHNOLOGY AND TELECOMMUNICATIONS

(b) EDUCATIONAL TELECOMMUNICATIONS

Section

- 79-1312. Act, how cited.
- 79-1313. Nebraska Educational Telecommunications Commission; creation; purpose.
- 79-1316. Educational telecommunications; commission; powers; duties.
- 79-1321. Act; not construed to require violation of federal copyright law.

(c) DISTANCE EDUCATION

- 79-1337. Distance education incentives; application; contents; calculation of incentives; denial of incentives; appeal.

(b) EDUCATIONAL TELECOMMUNICATIONS

79-1312 Act, how cited.

Sections 79-1312 to 79-1322 shall be known and may be cited as the Nebraska Educational Telecommunications Act.

Source: Laws 1963, c. 468, § 6, p. 1500; Laws 1984, LB 645, § 7; Laws 1988, LB 939, § 2; Laws 1995, LB 89, § 1; R.S.Supp.,1995, § 79-2106; Laws 1996, LB 900, § 968; Laws 2002, LB 93, § 20; Laws 2014, LB692, § 1; Laws 2023, LB254, § 6.
Effective date May 27, 2023.

79-1313 Nebraska Educational Telecommunications Commission; creation; purpose.

The Nebraska Educational Telecommunications Act creates the Nebraska Educational Telecommunications Commission for the purpose of (1) promoting and establishing noncommercial educational telecommunications facilities within the State of Nebraska, (2) providing noncommercial educational telecommunications programs throughout the State of Nebraska by digital broadcast, by closed-circuit transmission, by Internet-based delivery, or by other telecommunications technology distribution systems, (3) operating statewide educational and public radio and television networks, facilities, and services, and (4) providing closed-captioned live video coverage of the Legislature as provided in section 79-1316. The commission shall seek funding from federal, state, foundation, and private sources for capital construction and annual operations.

Source: Laws 1963, c. 468, § 1, p. 1497; Laws 1984, LB 645, § 1; Laws 1986, LB 461, § 1; R.S.1943, (1994), § 79-2101; Laws 1996, LB 900, § 969; Laws 1997, LB 347, § 50; Laws 2014, LB692, § 2; Laws 2023, LB254, § 7.
Effective date May 27, 2023.

79-1316 Educational telecommunications; commission; powers; duties.

The powers and duties of the Nebraska Educational Telecommunications Commission are:

(1) To promote and sponsor a noncommercial educational television network to serve a series of interconnecting units throughout the State of Nebraska;

(2) To promote and support locally operated or state-operated noncommercial educational radio stations with satellite receiving capabilities and improved transmitter coverage;

(3) To apply for and to receive and hold such authorizations, licenses, and assignments of channels from the Federal Communications Commission as may be necessary to conduct such educational telecommunications programs by standard radio and television broadcast or by other telecommunications technology broadcast systems and to prepare, file, and prosecute before the Federal Communications Commission all applications, reports, or other documents or requests for authorization of any kind necessary or appropriate to achieve the purposes set forth in the Nebraska Educational Telecommunications Act;

(4) To receive gifts and contributions from public and private sources to be expended in providing educational telecommunications facilities and programs;

(5) To acquire real estate and other property as an agency of the State of Nebraska and to hold and use the same for educational telecommunications purposes;

(6) To contract for the construction, repair, maintenance, and operation of telecommunications facilities;

(7) To contract with common carriers, qualified under the laws of the State of Nebraska, to provide interconnecting channels or satellite facilities in support of radio, television, and other telecommunications technology services unless it is first determined by the Nebraska Educational Telecommunications Commission that state-owned interconnecting channels can be constructed and operated that would furnish a comparable quality of service at a cost to the state that would be less than if such channels were provided by qualified common carriers;

(8) To provide for programming for the visually impaired, other print-handicapped persons, and the deaf and hard of hearing as authorized by the Federal Communications Commission under subsidiary communications authority rules, through contracts with appropriate nonprofit corporations or organizations which have been created for such purpose;

(9) To arrange for the operation of statewide educational telecommunications networks, as directed by the Nebraska Educational Telecommunications Commission, consistent with the provisions of the federal Communications Act of 1934, as amended, and applicable rules and regulations, with policies of the Federal Communications Commission, in cooperation with the State Board of Education insofar as elementary and secondary education programs are concerned, and in cooperation with the Coordinating Commission for Postsecondary Education insofar as postsecondary education programs are concerned;

(10) After taking into consideration the needs of the entire state, to establish and maintain general policies relating to the nature and character of educational telecommunications broadcasts or transmissions;

(11) To review, or cause to be reviewed by a person designated by the Nebraska Educational Telecommunications Commission, all programs presented on the network prior to broadcast or transmission to insure that the

programs are suitable for viewing and listening. Such suitability shall be determined by evaluating the content of the program, and screening the programs if necessary, as to their educational value and whether they enhance the cultural appreciation of the viewer and listener and do not appeal to his or her prurient interest. When it is obvious from an examination of the descriptive program materials that a program is suitable for presenting on the network, no further review shall be required;

(12) To cooperate with federal or state agencies for the purpose of obtaining matching federal or state funds and providing educational telecommunications facilities of all types throughout the state and to make such reports as may be required of recipients of matching funds;

(13) To arrange for and provide digital radio and television broadcast and other telecommunications technology transmissions of noncommercial educational telecommunications programs to Nebraska citizens and institutions, but no tax funds shall be used for program advertising which may only be financed out of funds received from foundations or individual gifts;

(14) To coordinate with Nebraska agencies that deal with telecommunications activities and are supported in whole or in part by public funds;

(15) To adopt bylaws for the conduct of its affairs;

(16) To make certain that the facilities are not used for any purpose which is contrary to the United States Constitution or the Constitution of Nebraska or for broadcasting propaganda or attempting to influence legislation;

(17) To publish such informational material as it deems necessary and it may, at its discretion, charge appropriate fees therefor. The proceeds of all such fees shall be remitted to the State Treasurer for credit to the State Educational Telecommunications Fund and shall be used by the commission solely for publishing such informational material. The commission shall provide to newspapers, radio stations, and other news media program schedules informing the public of programs approved by the commission;

(18) To maintain a digital archive of programs and educational content containing stories, events, individuals, and performances which are significant or prominent in Nebraska history; and

(19) Subject to policies and procedures developed by the Executive Board of the Legislative Council pursuant to section 50-117, to provide live, closed-captioned video coverage of the Legislature, including floor debate and public committee hearings, beginning with coverage of the One Hundred Ninth Legislature, First Session, in January 2025 or as soon as the commission has closed-captioning capabilities, whichever is sooner. Closed-captioned video coverage shall include closed captioning in both English and Spanish.

Source: Laws 1963, c. 468, § 3, p. 1497; Laws 1965, c. 535, § 2, p. 1682; Laws 1969, c. 743, § 1, p. 2799; Laws 1969, c. 744, § 1, p. 2802; Laws 1969, c. 742, § 2, p. 2796; Laws 1974, LB 306, § 1; Laws 1984, LB 645, § 4; Laws 1986, LB 461, § 2; R.S.1943, (1994), § 79-2103; Laws 1996, LB 900, § 972; Laws 1997, LB 347, § 53; Laws 2000, LB 1328, § 1; Laws 2011, LB331, § 1; Laws 2014, LB692, § 4; Laws 2023, LB254, § 8.
Effective date May 27, 2023.

79-1321 Act; not construed to require violation of federal copyright law.

Nothing in the Nebraska Educational Telecommunications Act shall be construed to require the Nebraska Educational Telecommunications Commission to post or distribute any work in a manner that would constitute a violation of federal copyright law.

Source: Laws 2023, LB254, § 9.
Effective date May 27, 2023.

(c) DISTANCE EDUCATION

79-1337 Distance education incentives; application; contents; calculation of incentives; denial of incentives; appeal.

(1) For fiscal years 2007-08 through 2028-29, the State Department of Education shall provide distance education incentives to school districts and educational service units for qualified distance education courses coordinated through the Educational Service Unit Coordinating Council as provided in this section. For fiscal years 2016-17 through 2023-24, funding for such distance education incentives shall come from the Nebraska Education Improvement Fund. For fiscal years 2024-25 through 2028-29, funding for such distance education incentives shall come from transfers pursuant to section 79-3501.

(2) School districts and educational service units shall apply for incentives annually through calendar year 2028 to the department on or before August 1 on a form specified by the department. The application shall:

(a) For school districts, specify (i) the qualified distance education courses which were received by students in the membership of the district in the then-current school fiscal year and which were not taught by a teacher employed by the school district and (ii) for each such course (A) the number of students in the membership of the district who received the course, (B) the educational entity employing the teacher, and (C) whether the course was a two-way interactive video distance education course; and

(b) For school districts and educational service units, specify (i) the qualified distance education courses which were received by students in the membership of another educational entity in the then-current school fiscal year and which were taught by a teacher employed by the school district or educational service unit, (ii) for each such course for school districts, the number of students in the membership of the district who received the course, and (iii) for each such course (A) the other educational entities in which students received the course and how many students received the course at such educational entities, (B) any school district that is sparse or very sparse as such terms are defined in section 79-1003 that had at least one student in the membership who received the course, and (C) whether the course was a two-way interactive video distance education course.

(3) On or before September 1 of each year through calendar year 2028, the department shall certify the incentives for each school district and educational service unit which shall be paid on or before October 1 of such year. The incentives for each district shall be calculated as follows:

(a) Each district shall receive distance education units for each qualified distance education course as follows:

(i) One distance education unit for each qualified distance education course received as reported pursuant to subdivision (2)(a) of this section if the course was a two-way interactive video distance education course;

(ii) One distance education unit for each qualified distance education course sent as reported pursuant to subdivision (2)(b) of this section if the course was not received by at least one student who was in the membership of another school district which was sparse or very sparse;

(iii) One distance education unit for each qualified distance education course sent as reported pursuant to subdivision (2)(b) of this section if the course was received by at least one student who was in the membership of another school district which was sparse or very sparse, but the course was not a two-way interactive video distance education course; and

(iv) Two distance education units for each qualified distance education course sent as reported pursuant to subdivision (2)(b) of this section if the course was received by at least one student who was in the membership of another school district which was sparse or very sparse and the course was a two-way interactive video distance education course;

(b)(i) For fiscal years through fiscal year 2023-24, the difference of the amount available for distribution pursuant to subdivision (4)(c)(vi) of section 79-3501 in the Nebraska Education Improvement Fund on the August 1 when the applications were due shall be divided by the number of distance education units to determine the incentive per distance education unit, except that the incentive per distance education unit shall not equal an amount greater than one thousand dollars; and

(ii) For fiscal years 2024-25 through 2028-29, the difference of the amount transferred pursuant to subdivision (2)(e) of section 79-3501 on the August 1 when the applications were due shall be divided by the number of distance education units to determine the incentive per distance education unit, except that the incentive per distance education unit shall not equal an amount greater than one thousand dollars; and

(c) The incentives for each school district shall equal the number of distance education units calculated for the school district multiplied by the incentive per distance education unit.

(4) If there are additional funds available for distribution after incentives calculated pursuant to subsections (1) through (3) of this section, school districts and educational service units may qualify for additional incentives for elementary distance education courses. Such incentives shall be calculated for sending and receiving school districts and educational service units as follows:

(a) The per-hour incentives shall equal the funds available for distribution after incentives calculated pursuant to subsections (1) through (3) of this section divided by the sum of the hours of elementary distance education courses sent or received for each school district and educational service unit submitting an application, except that the per-hour incentives shall not be greater than ten dollars; and

(b) The elementary distance education incentives for each school district and educational service unit shall equal the per-hour incentive multiplied by the hours of elementary distance education courses sent or received by the school district or educational service unit.

(5) The department may verify any or all application information using annual curriculum reports and may request such verification from the council.

(6) On or before October 1 of each year through calendar year 2028, a school district or educational service unit may appeal the denial of incentives for any

course by the department to the State Board of Education. The board shall allow a representative of the school district or educational service unit an opportunity to present information concerning the appeal to the board at the November board meeting. If the board finds that the course meets the requirements of this section, the department shall pay the district from the Nebraska Education Improvement Fund as soon as practical in an amount for which the district or educational service unit should have qualified based on the incentive per distance education unit used in the original certification of incentives pursuant to this section.

(7) The State Board of Education shall adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2006, LB 1208, § 23; Laws 2007, LB603, § 30; Laws 2008, LB988, § 53; Laws 2014, LB967, § 23; Laws 2015, LB519, § 25; Laws 2021, LB528, § 44; Laws 2023, LB705, § 94.
Operative date July 1, 2023.

**ARTICLE 15
COMPACTS**

(b) INTERSTATE TEACHER MOBILITY COMPACT

Section
79-1505. Interstate Teacher Mobility Compact.

(b) INTERSTATE TEACHER MOBILITY COMPACT

79-1505 Interstate Teacher Mobility Compact.

INTERSTATE TEACHER MOBILITY COMPACT

ARTICLE I- PURPOSE

The purpose of this Compact is to facilitate the mobility of Teachers across the Member States, with the goal of supporting Teachers through a new pathway to licensure. Through this Compact, the Member States seek to establish a collective regulatory framework that expedites and enhances the ability of Teachers to move across State lines.

This Compact is intended to achieve the following objectives and should be interpreted accordingly. The Member States hereby ratify the same intentions by subscribing hereto.

- A. Create a streamlined pathway to licensure mobility for Teachers;
- B. Support the relocation of Eligible Military Spouses;
- C. Facilitate and enhance the exchange of licensure, investigative, and disciplinary information between the Member States;
- D. Enhance the power of State and district level education officials to hire qualified, competent Teachers by removing barriers to the employment of out-of-state Teachers;
- E. Support the retention of Teachers in the profession by removing barriers to relicensure in a new State; and
- F. Maintain State sovereignty in the regulation of the teaching profession.

ARTICLE II- DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall govern the terms herein:

A. "Active Military Member" - means any person with full-time duty status in the uniformed service of the United States, including members of the National Guard and Reserve.

B. "Adverse Action" - means any limitation or restriction imposed by a Member State's Licensing Authority, such as revocation, suspension, reprimand, probation, or limitation on the licensee's ability to work as a Teacher.

C. "Bylaws" - means those bylaws established by the Commission.

D. "Career and Technical Education License" - means a current, valid authorization issued by a Member State's Licensing Authority allowing an individual to serve as a Teacher in P-12 public educational settings in a specific career and technical education area.

E. "Charter Member States" - means a Member State that has enacted legislation to adopt this Compact where such legislation predates the initial meeting of the Commission after the effective date of the Compact.

F. "Commission" - means the interstate administrative body which membership consists of delegates of all States that have enacted this Compact, and which is known as the Interstate Teacher Mobility Compact Commission.

G. "Commissioner" - means the delegate of a Member State.

H. "Eligible License" - means a license to engage in the teaching profession which requires at least a bachelor's degree and the completion of a state approved program for Teacher licensure.

I. "Eligible Military Spouse" - means the spouse of any individual in full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty, moving as a result of a military mission or military career progression requirements or on their terminal move as a result of separation or retirement (to include surviving spouses of deceased military members).

J. "Executive Committee" - means a group of Commissioners elected or appointed to act on behalf of, and within the powers granted to them by, the Commission as provided for herein.

K. "Licensing Authority" - means an official, agency, board, or other entity of a State that is responsible for the licensing and regulation of Teachers authorized to teach in P-12 public educational settings.

L. "Member State" - means any State that has adopted this Compact, including all agencies and officials of such a State.

M. "Receiving State" - means any State where a Teacher has applied for licensure under this Compact.

N. "Rule" - means any regulation promulgated by the Commission under this Compact, which shall have the force of law in each Member State.

O. "State" - means a state, territory, or possession of the United States and the District of Columbia.

P. "State Practice Laws" - means a Member State's laws, rules, and regulations that govern the teaching profession, define the scope of such profession, and create the methods and grounds for imposing discipline.

Q. "State Specific Requirements" - means a requirement for licensure covered in coursework or examination that includes content of unique interest to the State.

R. "Teacher" - means an individual who currently holds an authorization from a Member State that forms the basis for employment in the P-12 public schools of the State to provide instruction in a specific subject area, grade level, or student population.

S. "Unencumbered License" - means a current, valid authorization issued by a Member State's Licensing Authority allowing an individual to serve as a Teacher in P-12 public educational settings. An Unencumbered License is not a restricted, probationary, provisional, substitute, or temporary credential.

ARTICLE III- LICENSURE UNDER THE COMPACT

A. Licensure under this Compact pertains only to the initial grant of a license by the Receiving State. Nothing herein applies to any subsequent or ongoing compliance requirements that a Receiving State might require for Teachers.

B. Each Member State shall, in accordance with the Rules of the Commission, define, compile, and update as necessary, a list of Eligible Licenses and Career and Technical Education Licenses that the Member State is willing to consider for equivalency under this Compact and provide the list to the Commission. The list shall include those licenses that a Receiving State is willing to grant to Teachers from other Member States, pending a determination of equivalency by the Receiving State's Licensing Authority.

C. Upon the receipt of an application for licensure by a Teacher holding an Unencumbered Eligible License, the Receiving State shall determine which of the Receiving State's Eligible Licenses the Teacher is qualified to hold and shall grant such a license or licenses to the applicant. Such a determination shall be made in the sole discretion of the Receiving State's Licensing Authority and may include a determination that the applicant is not eligible for any of the Receiving State's Eligible Licenses. For all Teachers who hold an Unencumbered License, the Receiving State shall grant one or more Unencumbered License(s) that, in the Receiving State's sole discretion, are equivalent to the license(s) held by the Teacher in any other Member State.

D. For Active Military Members and Eligible Military Spouses who hold a license that is not Unencumbered, the Receiving State shall grant an equivalent license or licenses that, in the Receiving State's sole discretion, is equivalent to the license or licenses held by the Teacher in any other Member State, except where the Receiving State does not have an equivalent license.

E. For a Teacher holding an Unencumbered Career and Technical Education License, the Receiving State shall grant an Unencumbered License equivalent to the Career and Technical Education License held by the applying Teacher and issued by another Member State, as determined by the Receiving State in its sole discretion, except where a Career and Technical Education Teacher does not hold a bachelor's degree and the Receiving State requires a bachelor's degree for licenses to teach Career and Technical Education. A Receiving State may require Career and Technical Education Teachers to meet State industry recognized requirements, if required by law in the Receiving State.

ARTICLE IV- LICENSURE NOT UNDER THE COMPACT

A. Except as provided in Article III above, nothing in this Compact shall be construed to limit or inhibit the power of a Member State to regulate licensure or endorsements overseen by the Member State's Licensing Authority.

B. When a Teacher is required to renew a license received pursuant to this Compact, the State granting such a license may require the Teacher to com-

plete State Specific Requirements as a condition of licensure renewal or advancement in that State.

C. For the purposes of determining compensation, a Receiving State may require additional information from Teachers receiving a license under the provisions of this Compact.

D. Nothing in this Compact shall be construed to limit the power of a Member State to control and maintain ownership of its information pertaining to Teachers, or limit the application of a Member State's laws or regulations governing the ownership, use, or dissemination of information pertaining to Teachers.

E. Nothing in this Compact shall be construed to invalidate or alter any existing agreement or other cooperative arrangement which a Member State may already be a party to, or limit the ability of a Member State to participate in any future agreement or other cooperative arrangement to:

1. Award teaching licenses or other benefits based on additional professional credentials, including, but not limited to, National Board Certification;
2. Participate in the exchange of names of Teachers whose licenses have been subject to an Adverse Action by a Member State; or
3. Participate in any agreement or cooperative arrangement with a non-Member State.

ARTICLE V- TEACHER QUALIFICATIONS AND REQUIREMENTS FOR LICENSURE UNDER THE COMPACT

A. Except as provided for Active Military Members or Eligible Military Spouses in Article III.D above, a Teacher may only be eligible to receive a license under this Compact where that Teacher holds an Unencumbered License in a Member State.

B. A Teacher eligible to receive a license under this Compact shall, unless otherwise provided for herein:

1. Upon their application to receive a license under this Compact, undergo a criminal background check in the Receiving State in accordance with the laws and regulations of the Receiving State; and
2. Provide the Receiving State with information in addition to the information required for licensure for the purposes of determining compensation, if applicable.

ARTICLE VI- DISCIPLINE / ADVERSE ACTIONS

A. Nothing in this Compact shall be deemed or construed to limit the authority of a Member State to investigate or impose disciplinary measures on Teachers according to the State Practice Laws thereof.

B. Member States shall be authorized to receive, and shall provide, files and information regarding the investigation and discipline, if any, of Teachers in other Member States upon request. Any Member State receiving such information or files shall protect and maintain the security and confidentiality thereof, in at least the same manner that it maintains its own investigatory or disciplinary files and information. Prior to disclosing any disciplinary or investigatory information received from another Member State, the disclosing state shall communicate its intention and purpose for such disclosure to the Member State which originally provided that information.

ARTICLE VII- ESTABLISHMENT OF THE INTERSTATE
TEACHER MOBILITY COMPACT COMMISSION

A. The interstate compact Member States hereby create and establish a joint public agency known as the Interstate Teacher Mobility Compact Commission:

1. The Commission is a joint interstate governmental agency comprised of States that have enacted the Interstate Teacher Mobility Compact.

2. Nothing in this interstate compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each Member State shall have and be limited to one (1) delegate to the Commission, who shall be given the title of Commissioner.

2. The Commissioner shall be the primary administrative officer of the State Licensing Authority or their designee.

3. Any Commissioner may be removed or suspended from office as provided by the law of the state from which the Commissioner is appointed.

4. The Member State shall fill any vacancy occurring in the Commission within ninety (90) days.

5. Each Commissioner shall be entitled to one (1) vote about the promulgation of Rules and creation of Bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A Commissioner shall vote in person or by such other means as provided in the Bylaws. The Bylaws may provide for Commissioners' participation in meetings by telephone or other means of communication.

6. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the Bylaws.

7. The Commission shall establish by Rule a term of office for Commissioners.

C. The Commission shall have the following powers and duties:

1. Establish a Code of Ethics for the Commission.

2. Establish the fiscal year of the Commission.

3. Establish Bylaws for the Commission.

4. Maintain its financial records in accordance with the Bylaws of the Commission.

5. Meet and take such actions as are consistent with the provisions of this interstate compact, the Bylaws, and Rules of the Commission.

6. Promulgate uniform Rules to implement and administer this interstate compact. The Rules shall have the force and effect of law and shall be binding in all Member States. In the event the Commission exercises its Rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect of law.

7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any Member State Licensing Authority to sue or be sued under applicable law shall not be affected.

8. Purchase and maintain insurance and bonds.

9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State, or an associated non-governmental organization that is open to membership by all states.

10. Hire employees, elect, or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.

11. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use, any property, real, personal or mixed, provided that at all times the Commission shall avoid any appearance of impropriety.

12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed.

13. Establish a budget and make expenditures.

14. Borrow money.

15. Appoint committees, including standing committees composed of members and such other interested persons as may be designated in this interstate compact, Rules, or Bylaws.

16. Provide and receive information from, and cooperate with, law enforcement agencies.

17. Establish and elect an Executive Committee.

18. Establish and develop a charter for an Executive Information Governance Committee to advise on facilitating exchange of information, use of information, data privacy, and technical support needs, and provide reports as needed.

19. Perform such other functions as may be necessary or appropriate to achieve the purposes of this interstate compact consistent with the State regulation of Teacher licensure.

20. Determine whether a State's adopted language is materially different from the model compact language such that the State would not qualify for participation in the Compact.

D. The Executive Committee of the Interstate Teacher Mobility Compact Commission

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this interstate compact.

2. The Executive Committee shall be composed of eight voting members:

a. The Commission chair, vice chair, and treasurer; and

b. Five members who are elected by the Commission from the current membership:

i. Four voting members representing geographic regions in accordance with Commission Rules; and

ii. One at large voting member in accordance with Commission Rules.

3. The Commission may add or remove members of the Executive Committee as provided in Commission Rules.

4. The Executive Committee shall meet at least once annually.

5. The Executive Committee shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the Rules or Bylaws, changes to the compact legislation, fees paid by interstate compact Member States such as annual dues, and any compact fee charged by the Member States on behalf of the Commission.

b. Ensure Commission administration services are appropriately provided, contractual or otherwise.

c. Prepare and recommend the budget.

d. Maintain financial records on behalf of the Commission.

e. Monitor compliance of Member States and provide reports to the Commission.

f. Perform other duties as provided in Rules or Bylaws.

6. Meetings of the Commission

a. All meetings shall be open to the public, and public notice of meetings shall be given in accordance with Commission Bylaws.

b. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Committee or other committees of the Commission must discuss:

i. Non-compliance of a Member State with its obligations under the compact.

ii. The employment, compensation, discipline, or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures.

iii. Current, threatened, or reasonably anticipated litigation.

iv. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate.

v. Accusing any person of a crime or formally censuring any person.

vi. Disclosure of trade secrets or commercial or financial information that is privileged or confidential.

vii. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

viii. Disclosure of investigative records compiled for law enforcement purposes.

ix. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact.

x. Matters specifically exempted from disclosure by federal or Member State statute.

xi. Others matters as set forth by Commission Bylaws and Rules.

c. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

d. The Commission shall keep minutes of Commission meetings and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release

by a majority vote of the Commission or order of a court of competent jurisdiction.

7. Financing of the Commission

a. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

b. The Commission may accept all appropriate donations and grants of money, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same, provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest.

c. The Commission may levy on and collect an annual assessment from each Member State or impose fees on other parties to cover the cost of the operations and activities of the Commission, in accordance with the Commission Rules.

d. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Member States, except by and with the authority of the Member State.

e. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to accounting procedures established under Commission Bylaws. All receipts and disbursements of funds of the Commission shall be reviewed annually in accordance with Commission Bylaws, and a report of the review shall be included in and become part of the annual report of the Commission.

8. Qualified Immunity, Defense, and Indemnification

a. The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

b. The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

c. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had

a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

ARTICLE VIII- RULEMAKING

A. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in this interstate compact and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each Rule or amendment.

B. The Commission shall promulgate reasonable Rules to achieve the intent and purpose of this interstate compact. In the event the Commission exercises its Rulemaking authority in a manner that is beyond purpose and intent of this interstate compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect of law in the Member States.

C. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four (4) years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Member State.

D. Rules or amendments to the Rules shall be adopted or ratified at a regular or special meeting of the Commission in accordance with Commission Rules and Bylaws.

E. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule with forty-eight (48) hours' notice, with opportunity to comment, provided that the usual Rulemaking procedures shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or Member State funds;
3. Meet a deadline for the promulgation of an administrative Rule that is established by federal law or Rule; or
4. Protect public health and safety.

ARTICLE IX- FACILITATING INFORMATION EXCHANGE

A. The Commission shall provide for facilitating the exchange of information to administer and implement the provisions of this compact in accordance with the Rules of the Commission, consistent with generally accepted data protection principles.

B. Nothing in this compact shall be deemed or construed to alter, limit, or inhibit the power of a Member State to control and maintain ownership of its licensee information or alter, limit, or inhibit the laws or regulations governing licensee information in the Member State.

ARTICLE X- OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate

to effectuate the Compact's purposes and intent. The provisions of this Compact shall have standing as statutory law.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct, or any such similar matter.

3. All courts and all administrative agencies shall take judicial notice of the Compact, the Rules of the Commission, and any information provided to a Member State pursuant thereto in any judicial or quasi-judicial proceeding in a Member State pertaining to the subject matter of this Compact, or which may affect the powers, responsibilities, or actions of the Commission.

4. The Commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the Compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the Commission service of process shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall:

a. Provide written notice to the defaulting State and other Member States of the nature of the default, the proposed means of curing the default, or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

C. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Commissioners of the Member States, and all rights, privileges, and benefits conferred on that State by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

D. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, the State Licensing Authority, and each of the Member States.

E. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

F. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.

G. The defaulting State may appeal the action of the Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing party

shall be awarded all costs of such litigation, including reasonable attorney's fees.

H. Dispute Resolution

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between Member and non-Member States.

2. The Commission shall promulgate a Rule providing for both binding and non-binding alternative dispute resolution for disputes as appropriate.

I. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a Member State in default to enforce compliance with the provisions of the Compact and its promulgated Rules and Bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or State law.

ARTICLE XI- EFFECTUATION, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth Member State.

1. On or after the effective date of the Compact, the Commission shall convene and review the enactment of each of the Charter Member States to determine if the statute enacted by each such Charter Member State is materially different from the model Compact statute.

2. A Charter Member State whose enactment is found to be materially different from the model Compact statute shall be entitled to the default process set forth in Article X.

3. Member States enacting the Compact subsequent to the Charter Member States shall be subject to the process set forth in Article VII.C.20 to determine if their enactments are materially different from the model Compact statute and whether they qualify for participation in the Compact.

B. If any Member State is later found to be in default, or is terminated or withdraws from the Compact, the Commission shall remain in existence and the Compact shall remain in effect even if the number of Member States should be less than ten.

C. Any State that joins the Compact after the Commission's initial adoption of the Rules and Bylaws shall be subject to the Rules and Bylaws as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that State, as the Rules and Bylaws may be amended as provided in this Compact.

D. Any Member State may withdraw from this Compact by enacting a statute repealing the same.

1. A Member State’s withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing State’s Licensing Authority to comply with the investigative and Adverse Action reporting requirements of this Compact prior to the effective date of withdrawal.

E. This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding upon any Member State until it is enacted into the laws of all Member States.

ARTICLE XII- CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any Member State or a State seeking membership in the compact, or of the United States or the applicability thereof to any other government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any Member State, the Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

ARTICLE XIII- CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS

A. Nothing herein shall prevent or inhibit the enforcement of any other law of a Member State that is not inconsistent with the Compact.

B. Any laws, statutes, regulations, or other legal requirements in a Member State in conflict with the Compact are superseded to the extent of the conflict.

C. All permissible agreements between the Commission and the Member States are binding in accordance with their terms.

Source: Laws 2023, LB298, § 4.
Effective date September 2, 2023.

ARTICLE 21
LEARNING COMMUNITY

Section

79-2110. Diversity plan; limitations; school building maximum capacity; attendance areas; school board; duties; application to attend school outside attendance area; procedure; continuing student; notice.

79-2110 Diversity plan; limitations; school building maximum capacity; attendance areas; school board; duties; application to attend school outside attendance area; procedure; continuing student; notice.

(1)(a) Each diversity plan shall provide for open enrollment in all school buildings in the learning community for school years prior to school year 2017-18, subject to specific limitations necessary to bring about diverse enrollments in each school building in the learning community. Such limitations, for school buildings other than focus schools and programs other than focus programs, shall include giving preference at each school building first to

siblings of students who will be enrolled as continuing students in such school building or program for the first school year for which enrollment is sought in such school building and then to students that contribute to the socioeconomic diversity of enrollment at each building and may include establishing zone limitations in which students may access several schools other than their home attendance area school. Notwithstanding the limitations necessary to bring about diversity, open enrollment shall include providing access to students who do not contribute to the socioeconomic diversity of a school building, if, subsequent to the open enrollment selection process that is subject to limitations necessary to bring about diverse enrollments, capacity remains in a school building. In such a case, students who have applied to attend such school building shall be selected to attend such school building on a random basis up to the remaining capacity of such building. A student who has otherwise been disqualified from the school building pursuant to the school district's code of conduct or related school discipline rules shall not be eligible for open enrollment pursuant to this section. Any student who attended a particular school building in the prior school year and who is seeking education in the grades offered in such school building shall be allowed to continue attending such school building as a continuing open enrollment student through school year 2016-17.

(b) To facilitate the open enrollment provisions of this subsection, each school year each member school district in a learning community shall establish a maximum capacity for each school building under such district's control pursuant to procedures and criteria established by the State Department of Education. Each member school district shall also establish attendance areas for each school building under the district's control, except that the school board shall not establish attendance areas for focus schools or focus programs. The attendance areas shall be established such that all of the territory of the school district is within an attendance area for each grade. Students residing in a school district shall be allowed to attend a school building in such school district.

(c) For purposes of this section and sections 79-238 and 79-611, student who contributes to the socioeconomic diversity of enrollment means (i) a student who does not qualify for free or reduced-price lunches when, based upon the certification pursuant to section 79-2120, the school building the student will attend either has more students qualifying for free or reduced-price lunches than the average percentage of such students in all school buildings in the learning community or provides free meals to all students pursuant to the community eligibility provision or (ii) a student who qualifies for free or reduced-price lunches based on information collected from parents and guardians when, based upon the certification pursuant to section 79-2120, the school building the student will attend has fewer students qualifying for free or reduced-price lunches than the average percentage of such students in all school buildings in the learning community and does not provide free meals to all students pursuant to the community eligibility provision.

(2)(a) On or before March 15 of each year prior to 2017, a parent or guardian of a student residing in a member school district in a learning community may submit an application to any school district in the learning community on behalf of a student who is applying to attend a school building for the following school year that is not in an attendance area where the applicant resides or a focus school, focus program, or magnet school as such terms are defined in

section 79-769. On or before April 1 of each year beginning with the year immediately following the year in which the initial coordinating council for the learning community takes office, the school district shall accept or reject such applications based on the capacity of the school building, the eligibility of the applicant for the school building or program, the number of such applicants that will be accepted for a given school building, and whether or not the applicant contributes to the socioeconomic diversity of the school or program to which he or she has applied and for which he or she is eligible. The school district shall notify such parent or guardian in writing of the acceptance or rejection.

(b) A student may not apply to attend a school building in the learning community for any grades that are offered by another school building for which the student had previously applied and been accepted pursuant to this section, absent a hardship exception as established by the individual school district. On or before September 1 of each year prior to 2017, each school district shall provide to the learning community coordinating council a complete and accurate report of all applications received, including the number of students who applied at each grade level at each building, the number of students accepted at each grade level at each building, the number of such students that contributed to the socioeconomic diversity that applied and were accepted, the number of applicants denied and the rationales for denial, and other such information as requested by the learning community coordinating council.

(3) Each diversity plan may include establishment of one or more focus schools or focus programs and the involvement of every member school district in one or more pathways across member school districts. Enrollment in each focus school or focus program shall be designed to reflect the socioeconomic diversity of the learning community as a whole. School district selection of students for focus schools or focus programs shall be on a random basis from two pools of applicants, those who qualify for free and reduced-price lunches and those who do not qualify for free and reduced-price lunches. The percentage of students selected for focus schools from the pool of applicants who qualify for free and reduced-price lunches shall be as nearly equal as possible to the percentage of the student body of the learning community who qualify for free and reduced-price lunches. The percentage of students selected for focus schools from the pool of applicants who do not qualify for free and reduced-price lunches shall be as nearly equal as possible to the percentage of the student body of the learning community who do not qualify for free and reduced-price lunches. If more capacity exists in a focus school or program than the number of applicants for such focus school or program that contribute to the socioeconomic diversity of the focus school or program, the school district shall randomly select applicants up to the number of applicants that will be accepted for such building. A student who will complete the grades offered at a focus program, focus school, or magnet school that is part of a pathway shall be allowed to attend the focus program, focus school, or magnet school offering the next grade level as part of the pathway as a continuing student. A student who completes the grades offered at a focus program, focus school, or magnet school shall be allowed to attend a school offering the next grade level in the school district responsible for the focus program, focus school, or magnet school as a continuing student. A student who attended a program or school in the school year immediately preceding the first school year for which the program or school will operate as a focus program or focus

school approved by the learning community and meeting the requirements of section 79-769 and who has not completed the grades offered at the focus program or focus school shall be a continuing student in the program or school. For school year 2016-17, students attending a focus program or focus school outside of the school district shall be considered open enrollment students and, for school year 2017-18 and each school year thereafter, students attending a focus program or focus school shall be considered option enrollment students.

(4) On or before February 15 of each year, a parent or guardian of a student who is currently attending a school building or program, except a magnet school, focus school, or focus program, outside of the school district where the student resides and who will complete the grades offered at such school building prior to the following school year shall provide notice, on a form provided by the school district, to the school board of the school district containing such school building (a) for years prior to 2017, if such student will attend another school building within such district as a continuing student and which school building such student would prefer to attend or (b) for 2017 and each year thereafter, if such student will apply to enroll as an option student in another school building within such district and which school building such student would prefer to attend. On or before March 1, such school board shall provide a notice to such parent or guardian stating which school building or buildings the student shall be allowed to attend in such school district as a continuing student or an option student for the following school year. If the student resides within the school district, the notice shall include the school building offering the grade the student will be entering for the following school year in the attendance area where the student resides. This subsection shall not apply to focus schools or programs.

(5) Prior to the beginning of school year 2017-18, a parent or guardian of a student who moves to a new residence in the learning community after April 1 may apply directly to a school board within the learning community within ninety days after moving for the student to attend a school building outside of the attendance area where the student resides. Such school board shall accept or reject such application within fifteen days after receiving the application, based on the number of applications and qualifications pursuant to subsection (2) or (3) of this section for all other students.

(6) A parent or guardian of a student who wishes to change school buildings for emergency or hardship reasons may apply directly to a school board within the learning community at any time for the student to attend a school building outside of the attendance area where the student resides. Such application shall state the emergency or hardship and shall be kept confidential by the school board. Such school board shall accept or reject such application within fifteen days after receiving the application. Applications shall only be accepted if an emergency or hardship was presented which justifies an exemption from the procedures in subsection (4) of this section based on the judgment of such school board, and such acceptance shall not exceed the number of applications that will be accepted for the school year pursuant to subsection (2) or (3) of this section for such building.

(7) Each student attending a school building in the resident school district as an open enrollment student for any part of school year 2016-17 shall be allowed to continue attending such school building without submitting an additional

application unless the student has completed the grades offered in such school building or has been expelled and is disqualified pursuant to section 79-266.01.

Source: Laws 2006, LB 1024, § 16; Laws 2007, LB641, § 42; Laws 2008, LB1154, § 21; Laws 2009, LB62, § 6; Laws 2010, LB1070, § 14; Laws 2015, LB525, § 27; Laws 2016, LB1066, § 21; Laws 2016, LB1067, § 66; Laws 2023, LB705, § 95.

Operative date September 2, 2023.

ARTICLE 23

DIPLOMA OF HIGH SCHOOL EQUIVALENCY ASSISTANCE ACT

Section

79-2304. Appropriations; legislative intent; use; assistance to institutions; payments.

79-2308. Grants; High School Equivalency Grant Fund; created; use; investment.

79-2304 Appropriations; legislative intent; use; assistance to institutions; payments.

(1) It is the intent of the Legislature to appropriate seven hundred fifty thousand dollars from the General Fund for fiscal years 2013-14 and 2014-15, and any amount determined by the Legislature for any fiscal year thereafter, to the State Department of Education. Such funds shall be used by the department to provide assistance to institutions that offer high school equivalency programs and for expanding services and programs to support the completion of the general educational development program. Each such institution shall offer to eligible individuals adult dropout recovery services, including recruitment and learning plan development, and provide proactive coaching and mentoring to such individuals, culminating in qualification for a high school diploma. For purposes of this section, eligible individuals include adults and out-of-school youths sixteen years of age or older who are not enrolled or required to be enrolled in secondary school under state law and who have not previously earned a high school diploma or diploma of high school equivalency. Assistance shall be provided based on participation in an institution's high school equivalency program as follows:

(a) Each such institution shall receive one assistance payment for each participant who enrolled in its high school equivalency program in the most recently completed fiscal year;

(b) Each such institution shall receive one assistance payment for each enrolled participant who took an initial examination for a diploma of high school equivalency in the most recently completed fiscal year; and

(c) Each such institution shall receive one assistance payment for each participant not enrolled in the institution's high school equivalency program who took the examination for a diploma of high school equivalency in the most recently completed fiscal year.

(2) An institution shall receive additional assistance for any enrolled participant who failed his or her initial examination for a diploma of high school equivalency and requires additional training and testing.

Source: Laws 2013, LB366, § 4; Laws 2023, LB705, § 96.

Operative date June 2, 2023.

79-2308 Grants; High School Equivalency Grant Fund; created; use; investment.

(1) The State Department of Education shall provide for grants to any entity offering a high school equivalency program. Grants pursuant to this section shall be awarded to applicants which meet the requirements of section 79-2304.

(2) The High School Equivalency Grant 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 2015, LB382, § 2; Laws 2023, LB705, § 97.
Operative date June 2, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 25

EXPANDED LEARNING OPPORTUNITY GRANT PROGRAM ACT

Section

79-2506. Department; duties; proposal for grant; contents; award of grants.
79-2510. Expanded Learning Opportunity Grant Fund; created; use; investment; rules and regulations.

79-2506 Department; duties; proposal for grant; contents; award of grants.

(1) The department shall establish an application process and timeline pursuant to which partner organizations may submit proposals for a grant under the Expanded Learning Opportunity Grant Program. Each proposal shall include:

- (a) A grant planning period;
- (b) An agreement to participate in periodic evaluations of the expanded learning opportunity program, to be specified by the department;
- (c) Evidence that the proposed expanded learning opportunity program will be coordinated or contracted with existing programs;
- (d) A plan to coordinate and use a combination of local, state, philanthropic, and federal funding sources, including, but not limited to, funding available through the federal No Child Left Behind Act of 2001, 20 U.S.C. 6301 et seq., as such act and sections existed on January 1, 2015, funds allocated pursuant to section 79-3501, and funds from any other source designated or appropriated for purposes of the program. Funding provided by the Expanded Learning Opportunity Grant Program shall be matched on a one-to-one basis by community or partner contributions;
- (e) A plan to use sliding-fee scales and the funding sources included in subdivision (d) of this subsection;
- (f) An advisory body which includes families and community members;
- (g) Appropriately qualified staff;
- (h) An appropriate child-to-staff ratio;
- (i) Compliance with minimum health and safety standards;
- (j) A strong family development and support component, recognizing the central role of parents in their children's development; and
- (k) Developmentally and culturally appropriate practices and assessments.

(2) The proposal shall demonstrate how the expanded learning opportunity program will provide participating students with academic enrichment and expanded learning opportunities that are high quality, based on proven methods, if appropriate, and designed to complement students' regular academic programs. Such activities shall include two or more of the following:

- (a) Core education subjects of reading, writing, mathematics, and science;
- (b) Academic enrichment learning programs, including provision of additional assistance to students to allow the students to improve their academic achievement;
- (c) Science, technology, engineering, and mathematics (STEM) education;
- (d) Sign language, foreign language, and social studies instruction;
- (e) Remedial education activities;
- (f) Tutoring services, including, but not limited to, tutoring services provided by senior citizen volunteers;
- (g) Arts and music education;
- (h) Entrepreneurial education programs;
- (i) Telecommunications and technology education programs;
- (j) Programs for English language learners that emphasize language skills and academic achievement;
- (k) Mentoring programs;
- (l) Recreational activities;
- (m) Expanded library service hours;
- (n) Programs that provide assistance to students who have been truant, suspended, or expelled to allow such students to improve their academic achievement;
- (o) Drug abuse prevention and violence prevention programs;
- (p) Character education programs;
- (q) Health and nutritional services;
- (r) Behavioral health counseling services; and
- (s) Programs that promote parental involvement and family literacy.

(3) A proposal shall: (a) Demonstrate specifically how its activities are expected to improve student academic achievement; (b) demonstrate that its activities will be provided by organizations in partnership with the school that have experience or the promise of success in providing educational and related activities that will complement and enhance the academic performance, achievement, and positive development of the students; and (c) demonstrate that the expanded learning opportunity program aligns with the school district learning objectives and behavioral codes. Nothing in this subsection shall be construed to require an expanded learning opportunity program to provide academic services in specific subject areas.

(4) The department shall make an effort to fund expanded learning opportunity programs in both rural and urban areas of the state. The department shall award grants to proposals that offer a broad array of services, programs, and activities.

Source: Laws 2015, LB519, § 20; Laws 2023, LB705, § 98.
Operative date July 1, 2023.

79-2510 Expanded Learning Opportunity Grant Fund; created; use; investment; rules and regulations.

(1) The Expanded Learning Opportunity Grant Fund is created. The fund shall be administered by the department and shall consist of transfers pursuant to section 79-3501, repayments of grant funds, and interest payments received in the course of administering the Expanded Learning Opportunity Grant Program Act. The fund shall be used to carry out the Expanded Learning Opportunity Grant Program Act. 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 Board of Education, in consultation with the department, may adopt and promulgate rules and regulations to carry out the Expanded Learning Opportunity Grant Program Act.

Source: Laws 2015, LB519, § 24; Laws 2023, LB705, § 99.
Operative date July 1, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 31**SCHOOL SAFETY AND SECURITY**

(a) SCHOOL SAFETY AND SECURITY REPORTING SYSTEM ACT

Section

79-3106. Funding; legislative intent; report.

(b) SECURITY-RELATED INFRASTRUCTURE PROJECTS

79-3108. Security-related infrastructure projects; competitive grant program; application; report.

79-3109. School Safety and Security Fund; created; use; investment.

(a) SCHOOL SAFETY AND SECURITY REPORTING SYSTEM ACT

79-3106 Funding; legislative intent; report.

(1) It is the intent of the Legislature that federal funds shall be used to implement the School Safety and Security Reporting System Act for fiscal years 2021-22, 2022-23, and 2023-24. The Commissioner of Education shall electronically report data, a cost-benefit analysis, and a funding recommendation regarding the continued viability of the Safe2HelpNE report line to the Appropriations Committee of the Legislature and the Education Committee of the Legislature on or before January 5, 2024.

(2) It is the intent of the Legislature to appropriate eight hundred seventy thousand dollars from the General Fund for fiscal year 2024-25 and each fiscal year thereafter to the State Department of Education to carry out the School Safety and Security Reporting System Act.

Source: Laws 2021, LB322, § 6; Laws 2023, LB705, § 100.
Operative date July 1, 2023.

(b) SECURITY-RELATED INFRASTRUCTURE PROJECTS

79-3108 Security-related infrastructure projects; competitive grant program; application; report.

(1) The Commissioner of Education shall create and administer a competitive grant program to provide funding to school districts and to educational service units on behalf of approved or accredited nonpublic schools for security-related infrastructure projects. Such qualifying projects may include, but are not limited to, surveillance equipment, door-locking systems, and double-entry doors for school buildings. Subject to available appropriations, the State Department of Education shall provide a grant to any school district or educational service unit that applies for such grant for use in funding qualifying projects.

(2)(a) A school district may apply to the State Department of Education for a grant on forms and in a manner prescribed by the Commissioner of Education. A school district receiving a grant under this section shall divide the use of grant funds as evenly as possible among all eligible school buildings within such district.

(b) An educational service unit may apply to the State Department of Education for a grant on forms and in a manner prescribed by the Commissioner of Education for use in funding qualifying projects at approved or accredited nonpublic schools which contract with such educational service unit on such qualifying projects. An approved or accredited nonpublic school may apply to and contract with the appropriate educational service unit in the school's area in a manner prescribed by the educational service unit for purposes of funding qualifying projects pursuant to this section.

(3)(a) On or before December 1 of each year that grants were issued pursuant to this section, the State Department of Education shall provide a report electronically to the Clerk of the Legislature relating to such grants, which shall include, but need not be limited to:

(i) The number of schools that received grant funding, including whether a school was public or nonpublic, the grades of students served by such school, the number of students that attend such school, and the geographic location of such school;

(ii) How the grant funds were used;

(iii) The average amount of grant funds received by schools broken down by school student population size;

(iv) The number of schools that were denied grant funding and why; and

(v) Any other information the State Department of Education deems necessary.

(b) The report provided pursuant to subdivision (a) of this subsection shall not identify any particular school.

(4) The State Board of Education may adopt and promulgate rules and regulations to carry out this section.

(5) It is the intent of the Legislature to appropriate ten million dollars from the School Safety and Security Fund to the State Department of Education to administer the grant program pursuant to this section.

Source: Laws 2023, LB705, § 124.

Operative date September 2, 2023.

79-3109 School Safety and Security Fund; created; use; investment.

COMPUTER SCIENCE AND TECHNOLOGY EDUCATION ACT § 79-3305

The School Safety and Security Fund is created. The fund shall be administered by the State Department of Education and shall consist of any money transferred by the Legislature and any gifts, grants, or bequests. The department shall use money in the fund for grants for security-related infrastructure projects pursuant to section 79-3108. 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 2023, LB705, § 125.
Operative date September 2, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 33

COMPUTER SCIENCE AND TECHNOLOGY EDUCATION ACT

Section

- 79-3304. Computer science and technology education; required; high school graduation; requirements.
- 79-3305. Annual computer science and technology education status report.

79-3304 Computer science and technology education; required; high school graduation; requirements.

Beginning with school year 2025-26, each school district shall include computer science and technology education aligned to the academic content standards adopted pursuant to section 79-760.02 in the instructional program of its elementary, middle, and high schools. Beginning in school year 2027-28, each school district shall require each student to complete at least five high school credit hours in computer science and technology education prior to graduation. Such requirement may be completed through a single course or combination of high school courses that cover the computer science and technology academic content standards, and such courses may be made available in a traditional classroom setting, a blended-learning environment, or an online-based or other technology-based format.

Source: Laws 2022, LB1112, § 4; Laws 2023, LB705, § 101.
Operative date September 2, 2023.

79-3305 Annual computer science and technology education status report.

On or before December 1, 2026, and on or before December 1 of each year thereafter, in order to promote and support computer science and technology education, each school district shall provide an annual computer science and technology education status report to its school board and the State Department of Education, including, but not limited to, student progress on the computer science and technology courses and other district-determined measures of computer science and technology education progress from the previous school year.

Source: Laws 2022, LB1112, § 5; Laws 2023, LB705, § 102.
Operative date September 2, 2023.

ARTICLE 34

SCHOOL DISTRICT PROPERTY TAX LIMITATION ACT

Section

- 79-3401. Act, how cited.
 79-3402. Terms, defined.
 79-3403. Property tax request authority; calculation; certification.
 79-3404. Applicability of act.
 79-3405. Property tax request authority; election to exceed; procedure; base growth percentage; increase; procedure.
 79-3406. Unused property tax request authority; carry forward.
 79-3407. Property tax request authority; unused property tax request authority; requirements; school district; failure to comply; withhold state aid.
 79-3408. Rules and regulations.

79-3401 Act, how cited.

Sections 79-3401 to 79-3408 shall be known and may be cited as the School District Property Tax Limitation Act.

Source: Laws 2023, LB243, § 1.
 Operative date June 1, 2023.

79-3402 Terms, defined.

For purposes of the School District Property Tax Limitation Act, unless the context otherwise requires:

(1) Approved bonds means (a) bonds that are issued by a school district after the question of issuing such bonds has been approved by the voters of such school district and (b) bonds that are issued by a school district pursuant to section 79-10,110, 79-10,110.01, or 79-10,110.02;

(2) Average daily membership has the same meaning as in section 79-1003;

(3) Base growth percentage means the sum of:

(a) Three percent;

(b) The annual percentage increase in the student enrollment of the school district multiplied by:

(i) One if the school district's student enrollment has grown by an average of at least three percent and by at least one hundred fifty students over the preceding three years;

(ii) Seven-tenths if the school district's student enrollment has grown by an average of at least three percent over the preceding three years; or

(iii) Four-tenths if subdivisions (3)(b)(i) and (3)(b)(ii) of this section do not apply;

(c) The percentage obtained by first dividing the annual increase in the total number of limited English proficiency students in the school district by the student enrollment of the school district and then multiplying the quotient by fifteen hundredths; and

(d) The percentage obtained by first dividing the annual increase in the total number of poverty students in the school district by the student enrollment of the school district and then multiplying the quotient by fifteen hundredths;

(4) Department means the State Department of Education;

(5) Non-property-tax revenue means revenue of a school district from all state and local sources other than real and personal property taxes. Non-property-tax revenue does not include grants, donations, bonds, all revenue from a school district that has been merged into another school district or dissolved, activity funds, bond funds, cooperative funds, depreciation funds, employee benefit funds, nutrition funds, qualified capital purpose undertaking funds, or student fee funds, insurance proceeds, proceeds from the sale of property including land, buildings, or capital assets in special building funds, or proceeds of financing;

(6) Property tax request means the total amount of property taxes for the general and special building funds requested to be raised for a school district through the levy imposed pursuant to section 77-1601;

(7) Property tax request authority means the amount that may be included in a property tax request for the general or special building funds of the school district as determined pursuant to the School District Property Tax Limitation Act;

(8) School board has the same meaning as in section 79-101;

(9) School district has the same meaning as in section 79-101; and

(10) Student enrollment means the total number of students in the school district according to the fall school district membership report described in subsection (4) of section 79-528.

Source: Laws 2023, LB243, § 2.

Operative date June 1, 2023.

79-3403 Property tax request authority; calculation; certification.

(1) Except as provided in sections 79-3404 and 79-3405, a school district's property tax request for any year shall not exceed the school district's property tax request authority.

(2) The department shall calculate each school district's property tax request authority on an annual basis as follows:

(a) The school district's property tax request from the prior year shall be added to the non-property-tax revenue from the prior year minus any investment income from special building funds from the prior year, and the total shall be increased by the school district's base growth percentage; and

(b) The amount determined under subdivision (2)(a) of this section shall then be decreased by the amount of total non-property-tax revenue for the current year and adjusted for any known or documented errors in documentation received by the department from the school district. In determining the total non-property-tax revenue for the current year, any category of non-property-tax revenue for which there is insufficient data as of June 1 to make an accurate determination shall be deemed to be equal to the prior year's amount.

(3) The department shall certify the amount determined for each school district under this section to the school board of such school district. Such certified amount shall be the school district's property tax request authority.

Source: Laws 2023, LB243, § 3.

Operative date June 1, 2023.

79-3404 Applicability of act.

The School District Property Tax Limitation Act shall not apply to that portion of a school district's property tax request that is needed to pay the principal and interest on approved bonds.

Source: Laws 2023, LB243, § 4.

Operative date June 1, 2023.

79-3405 Property tax request authority; election to exceed; procedure; base growth percentage; increase; procedure.

(1) A school district's property tax request may exceed its property tax request authority by an amount approved by a sixty percent majority of legal voters voting on the issue at a special election called for such purpose upon the recommendation of the school board of such school district or upon the receipt by the county clerk or election commissioner of a petition requesting an election signed by at least five percent of the legal voters of the school district. The recommendation of the school board or the petition of the legal voters shall include the amount by which the school board would increase its property tax request for the year over and above the property tax request authority of such school district. The county clerk or election commissioner shall call for a special election on the issue within thirty days after the receipt of such school board recommendation or legal voter petition. The election shall be held pursuant to the Election Act, and all costs shall be paid by the school district.

(2)(a) A school district may increase the base growth percentage used to determine its property tax request authority under section 79-3403 by a percentage approved by an affirmative vote of at least seventy percent of the school board of such school district. The maximum base growth percentage that may be approved under this subsection shall be:

(i) The base growth percentage that would otherwise be applicable plus an additional seven percent for school districts with an average daily membership of no more than four hundred seventy-one students;

(ii) The base growth percentage that would otherwise be applicable plus an additional six percent for school districts with an average daily membership of more than four hundred seventy-one students but no more than three thousand forty-four students;

(iii) The base growth percentage that would otherwise be applicable plus an additional five percent for school districts with an average daily membership of more than three thousand forty-four students but no more than ten thousand students; or

(iv) The base growth percentage that would otherwise be applicable plus an additional four percent for school districts with an average daily membership of more than ten thousand students.

(b) Before a school board votes to increase a school district's base growth percentage under this subsection, the school board shall publish notice of the upcoming vote in a legal newspaper of general circulation in the school district. Such publication shall occur at least one week prior to the public meeting at which the vote will be taken.

(3) A school district's property tax request may exceed its property tax request authority pursuant to any property tax authority approved by the voters at a levy override election under section 77-3444 held prior to January 1, 2024.

Source: Laws 2023, LB243, § 5.

Operative date June 1, 2023.

Cross References

Election Act, see section 32-101.

79-3406 Unused property tax request authority; carry forward.

A school district may choose not to increase its property tax request by the full amount allowed by the school district's property tax request authority in a particular year. In such cases, the school district may carry forward to future years the amount of unused property tax request authority. The department shall calculate each school district's unused property tax request authority and shall submit an accounting of such amount to the school board of the school district. Such unused property tax request authority may then be used in later years for increases in the school district's property tax request.

Source: Laws 2023, LB243, § 6.

Operative date June 1, 2023.

79-3407 Property tax request authority; unused property tax request authority; requirements; school district; failure to comply; withhold state aid.

The department shall prepare documents to be submitted by school districts to aid the department in calculating each school district's property tax request authority and unused property tax request authority. Each school district shall submit such documents to the department on or before September 30 of each year. If a school district fails to submit such documents to the department or if the department determines from such documents that a school district is not complying with the limits provided in the School District Property Tax Limitation Act, the department shall notify the school district of its determination. The Commissioner of Education shall then direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act be withheld until such time as the school district submits the required documents or complies with the School District Property Tax Limitation Act. The state aid shall be held for six months. If the school district complies within the six-month period, it shall receive the suspended state aid. If the school district fails to comply within the six-month period, the suspended state aid shall revert to the General Fund.

Source: Laws 2023, LB243, § 7.

Operative date June 1, 2023.

Cross References

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

79-3408 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the School District Property Tax Limitation Act.

Source: Laws 2023, LB243, § 8.

Operative date June 1, 2023.

ARTICLE 35**STATE LOTTERY FUNDS FOR EDUCATION**

Section

79-3501. State lottery funds for education; distribution; Nebraska Education Improvement Fund; created; use; investment; state lottery funds; reports; Auditor of Public Accounts; duties.

79-3501 State lottery funds for education; distribution; Nebraska Education Improvement Fund; created; use; investment; state lottery funds; reports; Auditor of Public Accounts; duties.

(1) For fiscal years through fiscal year 2023-24, the money available to be used for education pursuant to subdivision (3)(b) of section 9-812 shall be transferred to the Nebraska Education Improvement Fund.

(2) For fiscal years 2024-25 through 2028-29, the money available to be used for education pursuant to subdivision (3)(b) of section 9-812 shall be transferred as follows:

- (a) Eight percent to the Behavioral Training Cash Fund;
- (b) Two percent to the College Pathway Program Cash Fund;
- (c) Seven percent to the Community College Gap Assistance Program Fund;
- (d) Ten percent to the Department of Education Innovative Grant Fund;
- (e) Three percent to fund distance education incentives pursuant to section 79-1337;
- (f) One percent to the Door to College Scholarship Fund;
- (g) Eight percent to the Excellence in Teaching Cash Fund;
- (h) One and one-half percent to the Expanded Learning Opportunity Grant Fund;
- (i) One and one-half percent to the Mental Health Training Cash Fund; and
- (j) Fifty-eight percent to the Nebraska Opportunity Grant Fund.

(3) For fiscal year 2029-30 and each fiscal year thereafter, the money available to be used for education pursuant to subdivision (3)(b) of section 9-812 shall be transferred as the Legislature may direct.

(4)(a) The Nebraska Education Improvement Fund is created. The fund shall consist of money transferred pursuant to subsection (1) of this section and any other funds transferred by the Legislature. The fund shall be allocated, after actual and necessary administrative expenses, as provided in this subsection for fiscal years 2016-17 through 2023-24. A portion of each allocation for fiscal year 2023-24 may be retained by the agency to which the allocation is made or the agency administering the fund to which the allocation is made for actual and necessary expenses incurred by such agency for administration, evaluation, and technical assistance related to the purposes of the allocation, except that no amount of the allocation to the Nebraska Opportunity Grant Fund may be used for such purposes.

(b) For fiscal years 2017-18 through 2023-24, an amount equal to ten percent of the revenue received by the Nebraska Education Improvement Fund in the prior fiscal year shall be retained in the fund at all times plus any interest earned during the current fiscal year. The balance of the fund on July 26, 2024, less three percent of the money received for the fourth quarter of fiscal year 2023-24, shall be transferred to the Behavioral Training Cash Fund.

(c) For fiscal year 2023-24, the Nebraska Education Improvement Fund shall be allocated as follows:

- (i) One percent of the allocated funds to the Expanded Learning Opportunity Grant Fund to carry out the Expanded Learning Opportunity Grant Program Act;

(ii) Seventeen percent of the allocated funds to the Department of Education Innovative Grant Fund to be used for competitive innovation grants pursuant to section 79-1054;

(iii) Nine percent of the allocated funds to the Community College Gap Assistance Program Fund to carry out the community college gap assistance program;

(iv) Eight percent of the allocated funds to the Excellence in Teaching Cash Fund to carry out the Excellence in Teaching Act;

(v) Sixty-two percent of the allocated funds to the Nebraska Opportunity Grant Fund to carry out the Nebraska Opportunity Grant Act in conjunction with appropriations from the General Fund; and

(vi) Three percent of the allocated funds to fund distance education incentives pursuant to section 79-1337.

(d) For fiscal year 2029-30 and each fiscal year thereafter, the Nebraska Education Improvement Fund shall be allocated as the Legislature may direct.

(e) 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) A portion of each transfer pursuant to subdivisions (2)(c), (e), (f), (g), (h), and (i) of this section may be retained by the agency administering the fund to which such transfer is made for actual and necessary expenses incurred by such agency for administration, evaluation, and technical assistance related to the purposes of the transfer.

(6)(a) On or before September 20, 2022, and on or before each September 20 thereafter, (i) any department or agency receiving a transfer or acting as the administrator for a fund receiving a transfer pursuant to subsection (2) or (4) of this section, (ii) any recipient or subsequent recipient of money from any such fund, and (iii) any service contractor responsible for managing any portion of any such fund or any money disbursed from any such fund on behalf of any entity shall prepare and submit an annual report to the Auditor of Public Accounts in a manner prescribed by the auditor for the immediately preceding July 1 through June 30 fiscal year detailing information regarding the use of such fund or such money.

(b) The Auditor of Public Accounts shall annually compile a summary of the annual reports received pursuant to subdivision (6)(a) of this section, any audits related to transfers pursuant to subsection (2) or (4) of this section conducted by the Auditor of Public Accounts, and any findings or recommendations related to such transfers into a consolidated annual report and shall submit such consolidated annual report electronically to the Legislature on or before January 1, 2023, and on or before each January 1 thereafter.

(c) For purposes of this subsection, recipient, subsequent recipient, or service contractor means a nonprofit entity that expends funds transferred pursuant to subsection (2) or (4) of this section to carry out a state program or function, but does not include an individual who is a direct beneficiary of such a program or function.

(7) On or before December 31, 2027, the Education Committee of the Legislature shall electronically submit recommendations to the Clerk of the Legislature regarding how the money used for education from the State Lottery Operation Trust Fund should be allocated to best advance the educational

priorities of the state for the five-year period beginning with fiscal year 2029-30.

Source: Laws 2023, LB705, § 1.
Operative date July 1, 2023.

Cross References

- Behavioral Intervention Training and Teacher Support Act, see section 79-3601.
- College Pathway Program Act, see section 79-3704.
- Community College Gap Assistance Program Act, see section 85-2001.
- Door to College Scholarship Act, see section 85-3201.
- Excellence in Teaching Act, see section 85-3101.
- Expanded Learning Opportunity Grant Program Act, see section 79-2501.
- Mental health training grant program, see section 79-3605.
- Nebraska Capital Expansion Act, see section 72-1269.
- Nebraska Opportunity Grant Act, see section 85-1901.
- Nebraska State Funds Investment Act, see section 72-1260.
- State Department of Education distance education incentives, see section 79-1337.
- State Department of Education innovative and improvement grant programs, see section 79-1054.

ARTICLE 36

BEHAVIORAL AND MENTAL HEALTH

(a) BEHAVIORAL INTERVENTION TRAINING AND TEACHER SUPPORT ACT

Section

- 79-3601. Behavioral Intervention Training and Teacher Support Act, how cited.
- 79-3602. Behavioral awareness training; statewide teacher support system; Educational Service Unit Coordinating Council; school district; duties; funding.
- 79-3603. Behavioral awareness point of contact; designation; training; duties; registry of local mental health and counseling resources; school district; maintain or have access.
- 79-3604. Behavioral Training Cash Fund; created; use; investment.

(b) MENTAL HEALTH TRAINING GRANTS

- 79-3605. Mental health training grant program; State Department of Education; duties; grant; application.
- 79-3606. Mental Health Training Cash Fund; created; use; investment.

(a) BEHAVIORAL INTERVENTION TRAINING AND TEACHER SUPPORT ACT

79-3601 Behavioral Intervention Training and Teacher Support Act, how cited.

Sections 79-3601 to 79-3604 shall be known and may be cited as the Behavioral Intervention Training and Teacher Support Act.

Source: Laws 2023, LB705, § 2.
Operative date July 1, 2023.

79-3602 Behavioral awareness training; statewide teacher support system; Educational Service Unit Coordinating Council; school district; duties; funding.

(1)(a) Beginning in school year 2024-25, the Educational Service Unit Coordinating Council shall (i) ensure annual behavioral awareness training is available statewide and (ii) develop, implement, and administer an ongoing statewide teacher support system.

(b) Beginning in school year 2026-27, each school district shall ensure that each administrator, teacher, paraprofessional, school nurse, and counselor

receives behavioral awareness training. Each administrator, teacher, paraprofessional, school nurse, and counselor who has received such training shall receive a behavioral awareness training review at least once every three years. Each school district may offer such training, or similar training, to any other school employees at the discretion of the school district. In addition, all school employees shall have a basic awareness of the goals, strategies, and schoolwide plans included in such training.

(c) Behavioral awareness training shall include, but not be limited to, evidence-based training on a continuum that includes:

- (i) Recognition of detrimental factors impacting student behavior, including, but not limited to, signs of trauma;
- (ii) Positive behavior support and proactive teaching strategies, including, but not limited to, expectations and boundaries; and
- (iii) Verbal intervention and de-escalation techniques.

(2)(a) On or before July 1, 2025, and on or before July 1 of each year thereafter, each school district shall submit a behavioral awareness training report to the Educational Service Unit Coordinating Council. Such report shall include the school district behavioral awareness training plan and summarize how such plan fulfills the requirements of this section.

(b) On or before December 31, 2025, and each December 31 thereafter, the Educational Service Unit Coordinating Council shall submit a report electronically to the Education Committee of the Legislature summarizing the behavioral awareness training reports received by school districts, the various trainings provided across the state, the teacher support system, and a financial report of funding received and expended in accordance with the Behavioral Intervention Training and Teacher Support Act.

(3)(a) Behavioral awareness training and the teacher support system required pursuant to this section shall be funded from the Behavioral Training Cash Fund.

(b) Any funding received by a school district for behavioral awareness training under the Behavioral Intervention Training and Teacher Support Act shall be considered special grant funds under section 79-1003.

Source: Laws 2023, LB705, § 3.

Operative date July 1, 2023.

79-3603 Behavioral awareness point of contact; designation; training; duties; registry of local mental health and counseling resources; school district; maintain or have access.

(1) Each school district shall designate one or more school employees as a behavioral awareness point of contact for each school building or other division as determined by such school district. Each behavioral awareness point of contact shall be trained in behavioral awareness and shall have knowledge of community service providers and other resources that are available for the students and families in such school district.

(2) Each school district shall maintain or have access to a registry of local mental health and counseling resources. The registry shall include resource services that can be accessed by families and individuals outside of school. Each behavioral awareness point of contact shall coordinate access to support services for students whenever possible. Except as provided in section 43-2101,

if information for an external support service is provided to an individual student, school personnel shall notify a parent or guardian of such student in writing unless such recommendation involves law enforcement or child protective services. Each school district shall indicate each behavioral awareness point of contact for such school district on the website of the school district and in any school directory for the school that the behavioral awareness point of contact serves.

Source: Laws 2023, LB705, § 4.
Operative date July 1, 2023.

79-3604 Behavioral Training Cash Fund; created; use; investment.

The Behavioral Training Cash Fund is created. The fund shall be administered by the State Department of Education, shall consist of money transferred pursuant to section 79-3501 and any money transferred by the Legislature, and shall be used for the purposes of coordinating training and administering the teacher support system in compliance with the Behavioral Intervention Training and Teacher Support Act. 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 2023, LB705, § 5.
Operative date July 1, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(b) MENTAL HEALTH TRAINING GRANTS

79-3605 Mental health training grant program; State Department of Education; duties; grant; application.

(1) The State Department of Education shall establish a mental health training grant program. The department shall award mental health training grants from any money available in the Mental Health Training Cash Fund. A grantee shall be a school district or an educational service unit.

(2) Each applicant for a mental health training grant shall describe in the application the training to be provided under the grant on:

(a) The skills, resources, and knowledge necessary to assist students in crisis to connect with appropriate local mental health services;

(b) Mental health resources, including, but not limited to, the location of local community mental health centers; and

(c) Action plans and protocols for referral to such resources.

(3) Each application for a mental health training grant shall also include in the application a description of how the training to be provided under the grant will prepare recipients of such training to:

(a) Safely de-escalate crisis situations;

(b) Recognize the signs and symptoms of mental illness, including, but not limited to, schizophrenia, bipolar disorder, major clinical depression, and anxiety disorders; and

(c) Timely refer a student to available mental health services in the early stages of the development of a mental disorder to avoid the need for subsequent behavioral health care and to enhance the effectiveness of mental health services.

(4) The State Board of Education may adopt and promulgate rules and regulations to carry out this section, including, but not limited to, application procedures, selection procedures, and annual reporting procedures.

(5) Grants received pursuant to this section shall be considered special grant funds under section 79-1003.

Source: Laws 2023, LB705, § 6.
Operative date July 1, 2023.

79-3606 Mental Health Training Cash Fund; created; use; investment.

The Mental Health Training Cash Fund is created. The fund shall be administered by the State Department of Education and shall consist of money transferred pursuant to section 79-3501 and any money transferred by the Legislature. The department shall use money in the fund for mental health training grants pursuant to section 79-3605. 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 2023, LB705, § 7.
Operative date July 1, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 37

COLLEGE PATHWAY PROGRAM ACT

Section

- 79-3701. Act, how cited.
79-3702. Terms, defined.
79-3703. College Pathway Program; eligible providers; grants; eligibility.
79-3704. College Pathway Program Act; annual report; rules and regulations.
79-3705. College Pathway Program Cash Fund; created; use; investment.

79-3701 Act, how cited.

Sections 79-3701 to 79-3705 shall be known and may be cited as the College Pathway Program Act.

Source: Laws 2023, LB705, § 8.
Operative date July 1, 2023.

79-3702 Terms, defined.

For purposes of the College Pathway Program Act:

- (1) Eligible provider means a provider who meets the requirements of section 79-3703;
- (2) Low-income student means a student eligible for free or reduced-price lunches in high school or a student whose family's taxable income for the

preceding year did not exceed one hundred fifty percent of the federal poverty level; and

(3) Underrepresented student means a student whose race is not proportionately represented at the institution at which the student is enrolled or applying for admission as the representation of such race in the population of Nebraska.

Source: Laws 2023, LB705, § 9.
Operative date July 1, 2023.

79-3703 College Pathway Program; eligible providers; grants; eligibility.

(1) The State Department of Education shall develop and administer the College Pathway Program to provide grants on or after July 1, 2024, to eligible providers to provide services in accordance with subsection (2) of this section to underrepresented and low-income students in high school and postsecondary education.

(2) A provider is eligible for a grant pursuant to the College Pathway Program Act if the provider offers, exclusively to underrepresented and low-income students, educational services that provide materials, services, and supports to help a student graduate from high school, apply for admission to a postsecondary institution, and complete the requirements to receive an associate degree or a baccalaureate degree. Such educational services may include:

(a) Assistance and tutorials which help students in completing applications for a college or university, including applying for aid through the Free Application for Federal Student Aid or other scholarships;

(b) Assistance and materials which help students take the appropriate high school classes in an area or field of study a student is interested in and any classes necessary for a student to gain acceptance at a postsecondary institution or complete the requirements and take the appropriate postsecondary education classes to receive an associate degree or a baccalaureate degree; and

(c) Any other services specified pursuant to rules and regulations adopted and promulgated by the State Board of Education.

(3) Eligible providers may apply to the State Department of Education for a grant on forms and in a manner prescribed by the department.

Source: Laws 2023, LB705, § 10.
Operative date July 1, 2023.

79-3704 College Pathway Program Act; annual report; rules and regulations.

(1) On or before December 1, 2024, and each December 1 thereafter, the State Department of Education shall electronically submit a report to the Clerk of the Legislature regarding the College Pathway Program Act, including, but not limited to, the recipients of grants and evaluations of the effectiveness of the grant program.

(2) The State Board of Education may adopt and promulgate rules and regulations to carry out the College Pathway Program Act.

Source: Laws 2023, LB705, § 11.
Operative date July 1, 2023.

79-3705 College Pathway Program Cash Fund; created; use; investment.

The College Pathway Program Cash Fund is created. The fund shall be administered by the State Department of Education and shall consist of money transferred pursuant to section 79-3501 and any money transferred by the Legislature. The department shall use the fund to carry out the College Pathway Program Act. 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 2023, LB705, § 12.
Operative date July 1, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

CHAPTER 80

SERVICEMEMBERS AND VETERANS

Article.

4. Veterans Aid. 80-401.

ARTICLE 4

VETERANS AID

Section

80-401. Nebraska Veterans' Aid Fund; Veterans' Aid Income Fund; created; purpose; use; investment; management.

80-401 Nebraska Veterans' Aid Fund; Veterans' Aid Income Fund; created; purpose; use; investment; management.

(1) There is hereby established a fund to be known as the Nebraska Veterans' Aid Fund. The Nebraska Investment Council is directed to purchase bonds or notes issued by the government of the United States or the State of Nebraska, or any county, school district, or municipality therein, with a face value of twelve million dollars, as of August 1, 1984, to carry out sections 80-401 to 80-405 and to place them in the custody and control of the State Treasurer of the State of Nebraska under the same conditions as other state money.

(2) Such fund shall be managed as follows: (a) When necessary to pay a premium for bonds for such fund, the amount of the premium shall be amortized over the term of the bonds from the interest received on such bonds; and (b) when bonds for such fund are purchased at a discount, the amount of the discount shall be used to purchase additional bonds, it being contemplated that the face amount of the bonds in such fund may in this manner aggregate in excess of twelve million dollars at some future time. Transfers may be made from the Nebraska Veterans' Aid Fund to the Veteran Cemetery Construction Fund at the direction of the Legislature until July 30, 2024. The State Treasurer shall transfer four million dollars from the Nebraska Veterans' Aid Fund to the Veteran Cemetery Construction Fund on July 15, 2023. The State Treasurer shall transfer four million dollars from the Nebraska Veterans' Aid Fund to the Veteran Cemetery Construction Fund on July 15, 2024.

(3) The interest on the Nebraska Veterans' Aid Fund, except so much as may be required for amortization of premium bond purchases as authorized in this section and so much as may be required to pay a pro rata share of the budget appropriated for the Nebraska Investment Council pursuant to section 72-1249.02, shall be paid to the Veterans' Aid Income Fund, which fund is hereby created. The Veterans' Aid Income Fund, when appropriated by the Legislature, shall be available to the Director of Veterans' Affairs for aid to needy veterans as authorized by law.

(4) The Nebraska Investment Council shall manage the Nebraska Veterans' Aid Fund, with investment and reinvestment to be made in the same type securities authorized for investment of funds by the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) The director shall advise the Nebraska Investment Council when amounts in the Veterans' Aid Income Fund are not immediately required for aid to needy veterans. The state investment officer shall invest such amounts available from the Veterans' Aid Income Fund in the same manner as investments of the Nebraska Veterans' Aid Fund, and the interest thereon shall also become a part of the Veterans' Aid Income Fund.

Source: Laws 1921, c. 40, § 1, p. 181; C.S.1922, § 6206; Laws 1923, c. 126, § 1, p. 311; Laws 1927, c. 194, § 1, p. 552; C.S.1929, § 80-401; R.S.1943, § 80-401; Laws 1945, c. 221, § 1, p. 659; Laws 1947, c. 306, § 1, p. 926; Laws 1951, c. 301, § 1, p. 990; Laws 1959, c. 422, § 1, p. 1419; Laws 1967, c. 486, § 44, p. 1531; Laws 1969, c. 584, § 94, p. 2404; Laws 1975, LB 234, § 1; Laws 1976, LB 867, § 1; Laws 1978, LB 733, § 1; Laws 1981, LB 157, § 1; Laws 1982, LB 255, § 1; Laws 1984, LB 38, § 1; Laws 1987, LB 786, § 2; Laws 1995, LB 7, § 95; Laws 2013, LB263, § 29; Laws 2023, LB818, § 23.
Effective date May 25, 2023.

Cross References

Board of Educational Lands and Funds, authorized investments, see sections 8-712, 46-567.04, and 72-202.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.
Veteran Cemetery Construction Fund, see section 12-1301.

CHAPTER 81

STATE ADMINISTRATIVE DEPARTMENTS

Article.

1. The Governor and Administrative Departments.
 - (d) Materiel Division of Administrative Services. 81-145, 81-161.04.
2. Department of Agriculture.
 - (x) Nebraska Pure Food Act. 81-2,239 to 81-2,279.
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 - (a) General Provisions. 81-1118, 81-1118.02.
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 - (e) Workforce Housing Investment. 81-1228 to 81-1243.
 - (i) Agricultural Products Research. 81-1278 to 81-1280. Repealed.
 - (n) Nebraska Innovation Hub Act. 81-12,109, 81-12,110.
 - (s) Site and Building Development Act. 81-12,147, 81-12,148.
 - (u) Nebraska Transformational Projects Act. 81-12,182.
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 - (w) Shovel-Ready Capital Recovery and Investment Act. 81-12,220 to 81-12,225.
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15. Environment and Energy.
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18. Crime Victims and Witnesses.
 - (a) Crime Victim's Reparations. 81-1821.
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20. Nebraska State Patrol.
 - (b) Retirement System. 81-2014, 81-2034.
31. Department of Health and Human Services. 81-3141 to 81-3143.
37. Nebraska Visitors Development Act. 81-3717, 81-3720.

ARTICLE 1

THE GOVERNOR AND ADMINISTRATIVE DEPARTMENTS

(d) MATERIEL DIVISION OF ADMINISTRATIVE SERVICES

Section

- 81-145. Materiel division; terms, defined.
- 81-161.04. Materiel division; surplus property; sale; procedure; proceeds of sale, how credited.

(d) MATERIEL DIVISION OF ADMINISTRATIVE SERVICES

81-145 Materiel division; terms, defined.

As used in sections 81-145 to 81-162, unless the context otherwise requires:

- (1) Materiel division means the head of the division of the state government charged with the administration of sections 81-145 to 81-162 and 81-1118 to

81-1118.06, which division shall be a part of and subject to the supervision of the office of the Director of Administrative Services;

(2) Personal property includes all materials, supplies, furniture, equipment, printing, stationery, automotive and road equipment, and other chattels, goods, wares, and merchandise whatsoever;

(3) Using agencies means and includes all officers of the state, departments, bureaus, boards, commissions, councils, and institutions receiving legislative appropriations, except that using agencies does not include the University of Nebraska and the Nebraska state colleges; and

(4) Lease or contract means an agreement entered into by the state or using agency with another party whereby, for a stated consideration, the state or using agency is to receive the personal property or use thereof furnished by the other party.

Source: Laws 1943, c. 215, § 1, p. 704; R.S.1943, § 81-145; Laws 1963, c. 508, § 1, p. 1616; Laws 1965, c. 538, § 29, p. 1714; Laws 1975, LB 359, § 3; Laws 1975, LB 447, § 1; Laws 1992, LB 1241, § 12; Laws 2000, LB 654, § 5; Laws 2023, LB705, § 103.
Operative date September 2, 2023.

81-161.04 Materiel division; surplus property; sale; procedure; proceeds of sale, how credited.

(1) Whenever any using agency has any personal property for which it no longer has any need or use, it shall notify the materiel division in writing setting forth a description of the property and the approximate length of time that the property has been in the possession of the using agency. The materiel division shall appraise the property and notify all other using agencies of the state that the materiel division has the property for sale and that the property can be bought at the appraised price. No property will be sold until first offered to using agencies as provided by this section unless the property is unusable. If the materiel division fails to receive an offer from any using agency, it may sell or dispose of the property by any method which is most advantageous to the State of Nebraska, including auction, sealed bid, private or public sale, or trade-in for other property, with priorities given to the other political subdivisions. All sales shall be made in the name of the State of Nebraska. The materiel division shall charge an administrative fee for the disposition of surplus property. Such administrative fee shall be a percentage of the amount of the sale of the surplus property. In the event surplus property is determined to have no market value, the materiel administrator may waive the administrative fee.

(2) Except as otherwise provided in this subsection, the proceeds of such sales shall be deposited with the State Treasurer and credited to the General Fund unless the using agency certifies to the materiel division that the property was purchased in part or in total from either cash accounts or federal funds or from a percentage of such accounts or funds, in which case the proceeds of the sale to that extent shall be credited to the cash or federal account in the percentage used in originally purchasing the property. The cost of selling surplus property shall be deducted from the proceeds of the surplus property sold. The proceeds received from the sale of passenger-carrying motor vehicles originally purchased with money from the General Fund, other than passenger-carrying motor vehicles used by the Nebraska State Patrol, less selling costs, shall be deposited in the state treasury and credited by the State Treasurer to

the Transportation Services Bureau Revolving Fund. The proceeds received from the sale of passenger-carrying motor vehicles used by the Nebraska State Patrol, less selling costs, shall be deposited in the state treasury and credited by the State Treasurer to the Nebraska State Patrol Vehicle Replacement Cash Fund. The proceeds received from the sale of micrographic equipment, less selling costs, shall be deposited in the state treasury and credited by the State Treasurer to the Records Management Micrographics Services Revolving Fund. The proceeds received from the sale of aircraft, less selling costs, shall be deposited in the state treasury and credited by the State Treasurer to the Aeronautics Cash Fund.

Source: Laws 1943, c. 215, § 9, p. 706; R.S.1943, § 81-153; Laws 1947, c. 310, § 1(2), p. 943; Laws 1951, c. 313, § 1, p. 1071; R.R.S.1943, § 81-153.01; Laws 1963, c. 508, § 13, p. 1621; Laws 1969, c. 781, § 1, p. 2958; Laws 1972, LB 1452, § 1; Laws 1975, LB 447, § 6; Laws 1979, LB 559, § 17; Laws 1979, LB 590, § 1; Laws 1995, LB 381, § 1; Laws 2000, LB 654, § 17; Laws 2017, LB339, § 274; Laws 2023, LB705, § 104.
Operative date September 2, 2023.

ARTICLE 2

DEPARTMENT OF AGRICULTURE

(x) NEBRASKA PURE FOOD ACT

Section	
81-2,239.	Nebraska Pure Food Act; provisions included; how cited.
81-2,240.	Definitions, where found.
81-2,247.	Guidance document, defined.
81-2,278.	Mobile food establishment operators; guidance document.
81-2,278.01.	Mobile food establishment; political subdivision; local licensing reciprocity; report.
81-2,279.	Mobile Food Establishment Ordinance Registry; department; powers and duties; city of the first class or city of the second class; requirements.

(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; Laws 2023, LB562, § 24.
Effective date September 2, 2023.

81-2,240 Definitions, where found.

For purposes of the Nebraska Pure Food Act, unless the context otherwise requires, the definitions found in sections 81-2,241 to 81-2,254 shall be used. In

addition, the definitions found in the code and practice adopted by reference in sections 81-2,257.01 and 81-2,259 shall be used.

Source: Laws 1981, LB 487, § 6; Laws 1989, LB 548, § 4; R.S.Supp.,1990, § 81-216.02; Laws 1991, LB 358, § 9; Laws 1992, LB 366, § 56; Laws 1997, LB 199, § 4; Laws 1999, LB 474, § 2; Laws 2004, LB 1045, § 2; Laws 2005, LB 131, § 2; Laws 2016, LB798, § 2; Laws 2017, LB134, § 2; Laws 2023, LB562, § 25.
Effective date September 2, 2023.

81-2,247 Guidance document, defined.

Guidance document has the same meaning as in section 84-901.

Source: Laws 2023, LB562, § 26.
Effective date September 2, 2023.

81-2,278 Mobile food establishment operators; guidance document.

The department shall develop and make available to the public a guidance document for mobile food establishment operators. The guidance document shall describe food establishment permit requirements applicable to mobile food establishments, including permit requirements applicable to reciprocity agreements between participating regulatory authorities under section 81-2,278.01.

Source: Laws 2023, LB562, § 29.
Effective date September 2, 2023.

81-2,278.01 Mobile food establishment; political subdivision; local licensing reciprocity; report.

(1) A political subdivision acting as a regulatory authority may enter into an agreement under the Interlocal Cooperation Act with other public agencies to grant and provide reciprocity for local licensing of mobile food establishments for purposes of regulating food safety and handling.

(2) On or before December 1, 2023, a political subdivision acting as a regulatory authority that is eligible to participate in an agreement under this section shall submit a report electronically to the Legislature. Such report shall contain the following information:

(a) A description of any reciprocity agreement entered into pursuant to this section; or

(b) If a reciprocity agreement has not been entered into pursuant to this section, a summary of actions taken to develop such an agreement and a description of any impediments to such an agreement.

Source: Laws 2023, LB562, § 27.
Effective date September 2, 2023.

Cross References

Interlocal Cooperation Act, see section 13-801.

81-2,279 Mobile Food Establishment Ordinance Registry; department; powers and duties; city of the first class or city of the second class; requirements.

(1) For purposes of this section, city means a city of the first class or a city of the second class.

(2) The department shall establish and maintain the Mobile Food Establishment Ordinance Registry. The registry shall be made available for review by the public on the department's website. The purpose of the registry is to record in a central location the municipal ordinances used to regulate mobile food establishments.

(3) Each city shall participate in the registry. Except as provided in subsection (4) of this section, each city shall provide the department with the following information for the registry:

(a) The name and address of each person responsible for regulating mobile food establishment operations;

(b) A sample copy of any form that is required to be submitted in order for the mobile food establishment to operate in the city;

(c) A complete electronic record of the ordinances used to regulate mobile food establishments; and

(d) Any other information the department deems necessary.

(4) Any city that does not regulate the operation of mobile food establishments in any way shall submit to the department for publication on the registry a written statement confirming that the city does not regulate the operation of mobile food establishments.

(5) To ensure an accurate and updated registry, each city shall:

(a) Upon a request by the department, make available to the department all information required pursuant to this section; and

(b) Beginning in 2023, by December 31 of each calendar year notify the department of any new or modified ordinance adopted within such calendar year regulating mobile food establishments.

(6) The department may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2023, LB562, § 28.

Effective date September 2, 2023.

ARTICLE 5

STATE FIRE MARSHAL

(b) GENERAL PROVISIONS

Section

81-502.03. Nebraska Fire Safety Appeals Board; disagreement; hearing; notice; decision; written report prior to order; exception; applicability of section.

(b) GENERAL PROVISIONS

81-502.03 Nebraska Fire Safety Appeals Board; disagreement; hearing; notice; decision; written report prior to order; exception; applicability of section.

(1) In case of disagreement concerning the propriety of any action taken or proposed to be taken by the State Fire Marshal or the application of any statute, rule, or regulation under the jurisdiction of the office with respect to any establishment or installation, the State Fire Marshal may, and upon application of any party in interest, shall provide for a hearing before the Nebraska Fire

Safety Appeals Board in the county of the establishment or installation which is the subject of the disagreement. At least ten days' written notice shall be given to the governing body responsible for the establishment or installation involved and to any public official having jurisdiction. The board shall make a decision based upon the evidence brought forth in the hearing and issue its order accordingly. Prior to ordering any political or governmental subdivision of the State of Nebraska to make any modification in the design or construction of any public building or any modification in the location, installation, or operation of any existing equipment in any public building or to replace such equipment, the State Fire Marshal, his or her first assistant, or one of his or her deputies shall personally appear at a regular meeting of the governing board of such subdivision and present a written report stating the condition of such building or equipment and the reason why such building should be modified or such equipment should be modified or replaced, and a copy of such report shall be attached to the order. Nothing in this section shall prevent the State Fire Marshal from ordering necessary repairs, and nothing in sections 81-502.01 to 81-502.03 shall prevent the State Fire Marshal, when actual and immediate danger to life exists, from ordering and requiring the occupants to vacate a building or structure subject to his or her jurisdiction.

(2) This section shall not apply to any decision, determination, or other action taken or made by the State Fire Marshal or the Underground Excavation Safety Committee under the One-Call Notification System Act.

Source: Laws 1971, LB 570, § 3; Laws 1977, LB 485, § 3; Laws 1988, LB 893, § 6; Laws 2023, LB683, § 11.
Effective date May 27, 2023.

ARTICLE 7

DEPARTMENT OF TRANSPORTATION

(a) GENERAL POWERS

Section

- 81-702. Nebraska Broadband Office; office space; administrative and budgetary support; Department of Transportation; duties; technology infrastructure projects on state highway property; powers.
- 81-703. Department of Transportation Aeronautics Capital Improvement Fund; created; use; investment.

(a) GENERAL POWERS

81-702 Nebraska Broadband Office; office space; administrative and budgetary support; Department of Transportation; duties; technology infrastructure projects on state highway property; powers.

(1) The Department of Transportation shall furnish the Nebraska Broadband Office with necessary office space, furniture, equipment, and supplies along with administrative and budgetary support, including salaries for professional, technical, and clerical assistants, except as limited in subsection (2) of this section. The Department of Transportation and the Nebraska Broadband Office shall, whenever practicable, seek reimbursement of such costs from federal-aid funds to the extent such costs are eligible for reimbursement.

(2) Broadband installation, operation, or maintenance projects of the Nebraska Broadband Office shall not be funded by the Department of Transportation, except as provided in subsection (3) of this section. Such restriction shall not

apply to any fund or appropriation of the Legislature that has been specifically designated for projects of the Nebraska Broadband Office.

(3) The Department of Transportation may use state highway funds for projects to install, operate, and maintain fiber optic, broadband, or other similar technology infrastructure on state highway property solely to meet the state's present and future transportation technology needs along the state highway system. The department is further authorized to enter into public-private partnerships or to use other alternative project delivery methods set out in the Transportation Innovation Act. The department is authorized to work with the Nebraska Broadband Office for such projects and to seek or solicit the use of eligible federal highway funds to pay some or all of the state's costs for such projects. Nothing in this subsection authorizes the department to own, operate, manage, construct, or maintain fiber optic, broadband, or other similar technology outside of state highway property.

Source: Laws 2023, LB683, § 3.
Effective date May 27, 2023.

Cross References

Transportation Innovation Act, see section 39-2801.

81-703 Department of Transportation Aeronautics Capital Improvement Fund; created; use; investment.

The Department of Transportation Aeronautics Capital Improvement Fund is created. The fund shall consist of money credited to the fund pursuant to section 77-27,132, transfers authorized by the Legislature, and any gifts, grants, bequests, or donations to the fund. The fund shall be administered by the Department of Transportation and shall be used to build, repair, renovate, rehabilitate, restore, modify, or improve any infrastructure at any public-use airport licensed by the Division of Aeronautics of the Department of Transportation. 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 2023, LB727, § 100.
Operative date June 7, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 8

INDEPENDENT BOARDS AND COMMISSIONS

(c) EMERGENCY MANAGEMENT

Section

- 81-829. Critical Infrastructure Utility Worker Protection Act; act, how cited.
- 81-829.01. Terms, defined.
- 81-829.02. Act, purposes.
- 81-829.03. Utilities; critical infrastructure utility workers; list; confidential.
- 81-829.04. Critical infrastructure utility workers; civil defense emergency, disaster, or emergency; Governor, duties.

(c) EMERGENCY MANAGEMENT

81-829 Critical Infrastructure Utility Worker Protection Act; act, how cited.

Sections 81-829 to 81-829.04 shall be known and may be cited as the Critical Infrastructure Utility Worker Protection Act.

Source: Laws 2023, LB191, § 1.

Operative date September 2, 2023.

81-829.01 Terms, defined.

For purposes of the Critical Infrastructure Utility Worker Protection Act, unless the context otherwise requires:

- (1) Civil defense emergency has the same meaning as in section 81-829.39;
- (2) Critical infrastructure utility worker means an essential critical infrastructure worker identified in the Guidance on the Essential Critical Infrastructure Workforce, Version 4.1, as released on August 5, 2021, by the United States Department of Homeland Security Cybersecurity and Infrastructure Security Agency;
- (3) Disaster has the same meaning as in section 81-829.39;
- (4) Emergency has the same meaning as in section 81-829.39;
- (5) Priority access means access at least equal to that provided to hospital and medical personnel, law enforcement personnel, or other emergency responders;
- (6) Utility means any legal entity, including a political subdivision, that owns or operates a utility system, or any part thereof, in this state; and
- (7) Utility system means the physical and cyber assets and infrastructure used in providing utility services to wholesale or retail customers. Utility system includes electrical, gas, water, steam, sewage, and telecommunications services.

Source: Laws 2023, LB191, § 2.

Operative date September 2, 2023.

81-829.02 Act, purposes.

The purposes of the Critical Infrastructure Utility Worker Protection Act are to:

- (1) Provide for protection of critical infrastructure utility workers during any civil defense emergency, disaster, or emergency;
- (2) Provide priority access to personal protective equipment; medical screening, testing, and preventative health services; medical treatment; and the administration of vaccines for critical infrastructure utility workers in the event of an emergency involving a severe threat to human health; and
- (3) Authorize federal and state financial aid for critical infrastructure utility workers during any civil defense emergency, disaster, or emergency involving a severe threat to human health.

Source: Laws 2023, LB191, § 3.

Operative date September 2, 2023.

81-829.03 Utilities; critical infrastructure utility workers; list; confidential.

Utilities shall maintain a list of critical infrastructure utility workers by position description without listing individual names. The list shall not be deemed a public record subject to disclosure pursuant to sections 84-712 to 84-712.09, but shall be made available to the Nebraska Emergency Management Agency upon request. The list shall be kept confidential by the agency.

Source: Laws 2023, LB191, § 4.

Operative date September 2, 2023.

81-829.04 Critical infrastructure utility workers; civil defense emergency, disaster, or emergency; Governor, duties.

In the event of any civil defense emergency, disaster, or emergency involving a severe threat to human health, the Governor shall:

(1) Ensure that critical infrastructure utility workers are provided priority access to personal protective equipment, medical screening, testing, preventive health services, medical treatment, and the administration of vaccines approved by the federal Food and Drug Administration; and

(2) Take all necessary measures to provide available federal funding for the adequate protection and care of critical infrastructure utility workers in accordance with federal law and regulations regarding eligibility for such funding.

Source: Laws 2023, LB191, § 5.

Operative date September 2, 2023.

ARTICLE 11

DEPARTMENT OF ADMINISTRATIVE SERVICES

(a) GENERAL PROVISIONS

Section

81-1118. Materiel division; established; duties; administrator; branches; established.

81-1118.02. State property; inventory; how stamped; action to recover.

(a) GENERAL PROVISIONS

81-1118 Materiel division; established; duties; administrator; branches; established.

The materiel division of the Department of Administrative Services is hereby established and shall be managed by the materiel administrator.

There are hereby established the following seven branches of the materiel division of the Department of Administrative Services which shall have the following duties, powers, and responsibilities:

(1) The office supplies bureau shall be responsible for providing office supplies, paper, and forms to using agencies;

(2) Central mail shall be responsible for all mailing operations, transportation of material, tracking shipments, and making freight claims;

(3) The print shop shall be responsible for specifications and for receiving bids and placing orders to the lowest and best commercial bidder for all printing and reproduction operations for the state. The print shop shall also be responsible for coordinating all existing printing and reproduction operations of the state;

(4) Copy services shall be responsible for the purchasing and placement of all copier requirements;

(5) The state purchasing bureau shall be responsible for all purchases by all state agencies other than the University of Nebraska and the Nebraska state colleges. The materiel division shall administer the public notice and bidding procedures and any other areas designated by the Director of Administrative Services to carry out the lease or purchase of personal property. All purchases of and contracts for materials, supplies, or equipment and all leases of personal property shall be made in the following manner except in emergencies approved by the Governor:

(a) By a competitive formal sealed bidding process through the materiel division in all cases in which the purchases are of estimated value exceeding fifty thousand dollars;

(b) By a competitive informal bidding process through the materiel division in all cases in which the purchases are of estimated value equal to or exceeding twenty-five thousand dollars but equal to or less than fifty thousand dollars;

(c) By unrestricted open market purchases through the materiel division in all cases in which purchases are of estimated value of less than twenty-five thousand dollars;

(d) All requisitions for whatever purpose coming to the state purchasing bureau shall be in conformance with the approved budget of the requisitioning department or agency;

(e) All contracts for purchases and leases shall be bid as a single whole item. In no case shall contracts be divided or fractionated in order to produce several contracts which are of an estimated value below that required for competitive bidding; and

(f) No contract for purchase or lease shall be amended to extend the duration of the contract for a period of more than fifty percent of the initial contract term. Following the adoption of any amendment to extend the contract for a period of fifty percent or less of the initial contract term, no further extensions of the original contract shall be permitted. This subdivision (f) does not prohibit the exercise of any renewal option expressly provided in the original contract;

(6) The state recycling office shall be responsible for the administration and operation of the State Government Recycling Management Act; and

(7) State surplus property shall be responsible for the disposition of the state's surplus property and the maintenance of all inventory records.

Nothing in this section shall be construed to require that works of art must be procured through the materiel division.

Source: Laws 1965, c. 538, § 18, p. 1705; Laws 1969, c. 780, § 4, p. 2955; Laws 1974, LB 1054, § 32; Laws 1975, LB 359, § 14; Laws 1975, LB 447, § 8; Laws 1981, LB 381, § 29; Laws 1992, LB 1241, § 27; Laws 1997, LB 314, § 11; Laws 1998, LB 1129, § 24; Laws 2000, LB 654, § 26; Laws 2003, LB 626, § 10; Laws 2017, LB151, § 6; Laws 2017, LB320, § 5; Laws 2023, LB705, § 105. Operative date September 2, 2023.

Cross References

State Government Recycling Management Act, see section 81-1183.

81-1118.02 State property; inventory; how stamped; action to recover.

(1) Except as otherwise provided in subsection (4) of this section, each executive, department, commission, or other state agency, and the Supreme Court, shall annually make or cause to be made an inventory of all property, including furniture and equipment, belonging to the State of Nebraska and in the possession, custody, or control of any executive, department, commission, or other state agency. The inventory shall include property in the possession, custody, or control of each executive, department, commission, or other state agency as of June 30 and shall be completed and filed with the materiel administrator by August 31 of each year.

(2) If any of the property of the state, referred to in subsection (1) of this section, is lost, destroyed, or unaccounted for by the negligence or carelessness of the executive, department, commission, or other state agency, the administrator shall, with the advice of the Attorney General, take the proper steps to recover such state property or the reasonable value thereof from the executive, department, commission, or other state agency charged with the same and from the person bonding such executive, department, commission, or other state agency, if any.

(3) Each such executive, department, commission, or other state agency shall indelibly tag, mark, or stamp all such property belonging to the State of Nebraska, with the following: Property of the State of Nebraska. In the inventory required by subsection (1) of this section, each such executive, department, commission, or other state agency shall state positively that each item of such property has been so tagged, marked, or stamped.

(4) This section does not apply to the Board of Regents of the University of Nebraska or the Board of Trustees of the Nebraska State Colleges.

Source: Laws 1937, c. 161, § 1, p. 625; Laws 1939, c. 94, § 1, p. 407; Laws 1941, c. 144, § 1, p. 573; C.S.Supp.,1941, § 72-707; R.S. 1943, § 72-707; Laws 1955, c. 278, § 3, p. 881; Laws 1957, c. 306, § 1, p. 1112; Laws 1959, c. 331, § 2, p. 1205; Laws 1963, c. 418, § 3, p. 1343; R.R.S.1943, § 72-707; Laws 1974, LB 1048, § 39; Laws 1981, LB 545, § 32; Laws 1984, LB 933, § 17; Laws 1989, LB 256, § 1; Laws 2011, LB59, § 3; Laws 2023, LB705, § 106.

Operative date September 2, 2023.

ARTICLE 12

DEPARTMENT OF ECONOMIC DEVELOPMENT

(a) GENERAL PROVISIONS

Section	
81-1212.	Building housing for individuals with disabilities; department; duties; collaboration and coordination required.
81-1213.02.	Economic Development Cash Fund; created; use; investment.
81-1213.03.	Panhandle Improvement Project Cash Fund; created; use; investment; criteria for grant applications.
81-1213.04.	Youth outdoor education camp; grant; eligible grantee; matching funds; grant period; return grant funds; conditions; uses for grant funds.
81-1213.05.	Youth Outdoor Education Innovation Fund; created; use; investment.
	(e) WORKFORCE HOUSING INVESTMENT
81-1228.	Terms, defined.
81-1229.	Workforce housing grant program; established; workforce housing grant; application; form; award; considerations; nonprofit development organization; duties.

STATE ADMINISTRATIVE DEPARTMENTS

- Section
81-1231. Nonprofit development organization; annual report; contents; final report; failure to file; civil penalty.
81-1237. Terms, defined.
81-1238. Workforce housing investment grant program; established; workforce housing grant; application; form; award; considerations; workforce housing investment fund; requirements.
81-1239. Middle Income Workforce Housing Investment Fund; created; use; investment; subaccount; purpose; return of grant funds; when required.
81-1240. Nonprofit development organization; annual report; contents; final report; failure to file; civil penalty; applicability of section.
81-1243. Rules and regulations.
- (i) AGRICULTURAL PRODUCTS RESEARCH
- 81-1278. Repealed. Laws 2023, LB818, § 45.
81-1279. Repealed. Laws 2023, LB818, § 45.
81-1280. Repealed. Laws 2023, LB818, § 45.
- (n) NEBRASKA INNOVATION HUB ACT
- 81-12,109. Innovation hub areas; department designate innovation hubs; limit on number.
81-12,110. Innovation hub; application; contents; fee; approval procedure; department; duties; memorandum of understanding; report.
- (s) SITE AND BUILDING DEVELOPMENT ACT
- 81-12,147. Site and Building Development Fund; use; eligible activities.
81-12,148. Entities eligible to receive assistance; matching funds; requirements; exception; applicability of section.
- (u) NEBRASKA TRANSFORMATIONAL PROJECTS ACT
- 81-12,182. Matching funds; eligibility; application; requirements; approval; deadlines.
- (v) NEBRASKA RURAL PROJECTS ACT
- 81-12,203. Project, defined.
81-12,211. Matching funds; receipt; conditions; exception; payment.
81-12,218. Nebraska Rural Projects Fund; created; use; investment.
- (w) SHOVEL-READY CAPITAL RECOVERY AND INVESTMENT ACT
- 81-12,220. Act; purpose.
81-12,221. Terms, defined.
81-12,222. Grant; application; approval; amount.
81-12,223. Qualified nonprofit organization; grant; requirements; repayment, when.
81-12,225. Federal funds and cash funds; use; legislative intent; changes to sections; applicability.
- (z) ECONOMIC RECOVERY ACT
- 81-12,238. Act, how cited.
81-12,240. Terms, defined.
81-12,241. Economic Recovery and Incentives Division; grants; payment; use; prioritize; Qualified Census Tract Recovery Grant Program; other grant funding; purposes; preparing land parcels; permitted activities; compliance with federal law; applicability to state-funded grants.
81-12,241.01. Economic Recovery and Incentives Division; North and South Omaha Recovery Grant Program; other grant funding; purposes; project; eligibility for grant; requirements; grants; payment.
81-12,243. Economic Recovery Contingency Fund; created; use; prioritize; investment.
81-12,244. Appropriations and transfers of funds; legislative intent; use; restrictions.

Section

(aa) FEDERAL CORONAVIRUS CAPITAL PROJECTS FUND

81-12,245. Department of Economic Development; use of funds; restrictions; grant applications; priorities.

(a) GENERAL PROVISIONS

81-1212 Building housing for individuals with disabilities; department; duties; collaboration and coordination required.

(1) For purposes of this section, Olmstead Plan means the comprehensive strategic plan for providing services to individuals with disabilities that was developed in accordance with section 81-6,122.

(2) In order to help fulfill one of the goals of the Olmstead Plan, the Department of Economic Development shall use its best efforts to obtain state and federal grants for the purpose of building safe, affordable, and accessible housing for individuals with disabilities.

(3) The Department of Economic Development shall collaborate with the Nebraska Investment Finance Authority and the Department of Health and Human Services in obtaining such grants. The Department of Economic Development shall use its best efforts to coordinate and contract with the Nebraska Investment Finance Authority to develop and administer grant programs under this section.

Source: Laws 2023, LB92, § 75.

Operative date September 2, 2023.

81-1213.02 Economic Development Cash Fund; created; use; investment.

The Economic Development Cash Fund is created. The Department of Economic Development shall administer the fund to provide a grant to a community college serving a city of the metropolitan class to partner with a four-year public university serving a city of the metropolitan class to offer microcredentials to support education expansion, curricula development, and staff hires to meet demand for microchip fabrication and microelectronics manufacturing in the state in conjunction with the Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act, Public Law 116-283. The fund shall consist of money transferred by the Legislature and gifts, grants, or bequests from any source, including money remitted to the fund from any other federal, state, public, and private sources. 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 2023, LB818, § 39.

Effective date May 25, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1213.03 Panhandle Improvement Project Cash Fund; created; use; investment; criteria for grant applications.

(1) The Panhandle Improvement Project Cash Fund is created. The fund shall be administered by the Department of Economic Development. The fund shall consist of funds transferred 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 grants for the following purposes:

(a) A grant to a county in the third congressional district that owns and operates the county fairgrounds for renovation to the fairgrounds. A grant under this subdivision shall be limited to nine hundred ninety-five thousand dollars; and

(b) A grant to a village with a population of less than ten persons for renovation to a community facility that serves the surrounding rural area. A grant under this subdivision shall be limited to five thousand dollars.

(3) The Department of Economic Development shall develop criteria for grant applications pursuant to this section.

Source: Laws 2023, LB818, § 41.

Effective date May 25, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1213.04 Youth outdoor education camp; grant; eligible grantee; matching funds; grant period; return grant funds; conditions; uses for grant funds.

(1) For purposes of this section:

(a) Department means the Department of Economic Development;

(b) Director means the Director of Economic Development;

(c) Eligible grantee means a nonprofit organization holding a certificate of exemption under section 501(c)(3) of the Internal Revenue Code of 1986; and

(d) Eligible location means a location on or contiguous to the location of a youth outdoor education camp that is located west of the one hundredth meridian where youth outdoor education camp facilities were destroyed by a natural or manmade disaster that occurred after January 1, 2022.

(2)(a) An eligible grantee may apply to the department for a grant for ten million dollars for the uses described in subsection (4) of this section at an eligible location.

(b) The department shall award one grant for ten million dollars to an eligible grantee if:

(i) The eligible grantee completes a feasibility study for the intended use of the grant and presents such completed feasibility study to the director on or before June 30, 2024; and

(ii) The director finds that the results of the completed feasibility study demonstrate the viability of the project and approves such completed feasibility study.

(3) The grantee shall receive grant money on a dollar-for-dollar matching basis from the department, which may be released in multiple stages, at any time within ten years after being awarded the grant, if the applicant provides documentation to the department that matching funds have been received in the amount requested for release and that the grant money is being used to complete the project in conformity with the approved feasibility study. At the end of the ten-year allowable grant period, if any grant money was not spent in conformity with the approved feasibility study or if any unmatched grant money

was erroneously awarded to the grantee, the grantee shall remit such grant money to the State Treasurer for credit to the Youth Outdoor Education Innovation Fund. The matching funds may include any money, real estate subject to section 81-1108.33, in-kind donation, private or public grant, gift, endowment raised to sustain the uses described in subsection (4) of this section, expense for a feasibility study, or planning cost.

(4) The grant may be used to pay for:

- (a) Construction of physical structures;
- (b) Construction of year-round facilities, including lodging, conference, and meeting facilities, and related infrastructure, to generate local and regional economic development;
- (c) Equipment that will be used for construction and maintenance of physical structures, facilities, and infrastructure described in this subsection; and
- (d) Infrastructure necessary to ensure accessibility to the physical structures and facilities by the public.

(5) The department may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2023, LB818, § 42.
Effective date May 25, 2023.

Cross References

Youth Outdoor Education Innovation Fund, see section 81-1213.05.

81-1213.05 Youth Outdoor Education Innovation Fund; created; use; investment.

The Youth Outdoor Education Innovation Fund is created. The fund shall consist of transfers made by the Legislature and any gifts, grants, bequests, donations, or money remitted pursuant to section 81-1213.04 for credit to the fund. The Department of Economic Development shall administer the fund for the purposes described in section 81-1213.04. 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. Investment earnings from investment of money in the fund shall be credited to the fund.

Source: Laws 2023, LB818, § 43.
Effective date May 25, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(e) WORKFORCE HOUSING INVESTMENT

81-1228 Terms, defined.

For purposes of the Rural Workforce Housing Investment Act:

- (1) Department means the Department of Economic Development;
- (2) Director means the Director of Economic Development;
- (3) Eligible activities of a nonprofit development organization means:
 - (a) New construction of owner-occupied or rental housing in a community with demonstrated workforce housing needs;

- (b) Substantial repair or rehabilitation of dilapidated housing stock;
- (c) Upper-story housing development; or
- (d) Extension of sewer or water service in support of workforce housing;
- (4) HOME funds means funds awarded as formula grants under the HOME Investment Partnerships Program administered by the United States Department of Housing and Urban Development;
- (5) Matching funds means dollars contributed by individuals, businesses, foundations, local, regional, and statewide political subdivisions, or other nonprofit organizations to a workforce housing investment fund administered by a nonprofit development organization;
- (6) Nonprofit development organization means a local, regional, or statewide nonprofit development organization approved by the director;
- (7) Qualified activities include, but are not limited to, purchase and rental guarantees, loan guarantees, loan participations, and other credit enhancements or any other form of assistance designed to reduce the cost of workforce housing related to eligible activities of the nonprofit development organization;
- (8) Qualified investment means a cash investment in a workforce housing investment fund administered by a nonprofit development organization;
- (9) Rural community means any municipality in a county with a population of fewer than one hundred thousand inhabitants as determined by the most recent federal decennial census;
- (10) Workforce housing means:
 - (a) Housing that meets the needs of today's working families;
 - (b) Housing that is attractive to new residents considering relocation to a rural community;
 - (c) Owner-occupied housing units that cost not more than three hundred twenty-five thousand dollars to construct or rental housing units that cost not more than two hundred fifty thousand dollars per unit to construct. For purposes of this subdivision (c), housing unit costs shall be updated annually by the department based upon the most recent increase or decrease in the Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics;
 - (d) Owner-occupied and rental housing units for which the cost to substantially rehabilitate exceeds fifty percent of a unit's assessed value;
 - (e) Upper-story housing; and
 - (f) Housing units that do not receive federal or state low-income housing tax credits, community development block grants, HOME funds, or funds from the National Housing Trust Fund, which would impose individual or household income limitations or restrictions on such housing units, or funding from the Affordable Housing Trust Fund restricting the level of individual or household income to anything less than one hundred percent of area median income as calculated by the United States Department of Housing and Urban Development; and
- (11) Workforce housing investment fund means a fund that has been created by a nonprofit development organization and certified by the director to encourage development of workforce housing in rural communities.

Source: Laws 2017, LB518, § 3; Laws 2022, LB1069, § 1; Laws 2023, LB191, § 19.

Operative date September 2, 2023.

81-1229 Workforce housing grant program; established; workforce housing grant; application; form; award; considerations; nonprofit development organization; duties.

(1) The director shall establish a workforce housing grant program to foster and support the development of workforce housing in rural communities.

(2) A nonprofit development organization may apply to the director for approval of a workforce housing grant for a workforce housing investment fund. The application shall be in a form and manner prescribed by the director. Through fiscal year 2026-27, grants shall be awarded by the director on a competitive basis until grant funds are no longer available. A nonprofit development organization may apply for more than one grant, subject to the following limits:

(a) The maximum amount of grant funds awarded to any one nonprofit development organization over a two-year period shall not exceed five million dollars; and

(b) The maximum amount of grant funds awarded to any one nonprofit development organization for all program years shall not exceed an aggregate limit determined by the department at the discretion of the director.

(3) An applicant shall provide matching funds of at least one-quarter of the amount of workforce housing grant funds awarded. Unallocated workforce housing grant funds held by the department shall be rolled to the next program year.

(4) Grants shall be awarded based upon:

(a) A demonstrated and ongoing housing need as identified by a recent housing study;

(b) A community or region that has a low unemployment rate and is having difficulty attracting workers and filling employment positions;

(c) A community or region that exhibits a demonstrated commitment to growing its housing stock;

(d) Projects that can reasonably be ready for occupancy in a period of twenty-four months; and

(e) A demonstrated ability to grow and manage a workforce housing investment fund.

(5) A nonprofit development organization shall:

(a) Invest or intend to invest in workforce housing eligible activities;

(b) Use any fees, interest, loan repayments, or other funds it received as a result of the administration of the grant to support qualified activities; and

(c) Have an active board of directors with expertise in development, construction, and finance that meets at least quarterly to approve all qualified investments made by the nonprofit development organization. A nonprofit development organization shall have a formal plan and proven expertise to invest unused workforce housing investment fund balances and shall have an annual review of all financial records conducted by an independent certified public accountant.

Source: Laws 2017, LB518, § 4; Laws 2022, LB1069, § 2; Laws 2023, LB191, § 20; Laws 2023, LB727, § 101.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB191, section 20, with LB727, section 101, to reflect all amendments.

Note: Changes made by LB191 became operative September 2, 2023. Changes made by LB727 became operative June 7, 2023.

81-1231 Nonprofit development organization; annual report; contents; final report; failure to file; civil penalty.

(1) Each nonprofit development organization shall submit an annual report to the director to be included as a part of the department's annual status report required under section 81-1201.11. The report shall certify that the nonprofit development organization meets the requirements of the Rural Workforce Housing Investment Act and shall include a breakdown of program activities.

(2) The annual report shall include, but not necessarily be limited to:

(a) The name and geographical location of the reporting nonprofit development organization;

(b) The number, amount, and type of workforce housing investment funds invested in qualified activities;

(c) The number, geographical location, type, and amount of investments made;

(d) A summary of matching funds and where such matching funds were generated; and

(e) The results of the annual review of all financial records required under subsection (5) of section 81-1229.

(3) If a nonprofit development organization ceases administration of a workforce housing investment fund, it shall file a final report with the director in a form and manner required by the director. Before July 1, 2027, any unallocated grant funds shall be returned to the department for credit to the Rural Workforce Housing Investment Fund. On and after July 1, 2027, any unallocated grant funds shall be returned to the department for transfer to the General Fund.

(4) If a nonprofit development organization fails to file a complete annual report by February 15, the director may, in his or her discretion, impose a civil penalty of not more than five thousand dollars for such violation. All money collected by the department 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.

Source: Laws 2017, LB518, § 6; Laws 2022, LB1069, § 4; Laws 2023, LB191, § 21.

Operative date September 2, 2023.

81-1237 Terms, defined.

For purposes of the Middle Income Workforce Housing Investment Act:

(1) Department means the Department of Economic Development;

(2) Director means the Director of Economic Development;

(3) Eligible activities of a workforce housing investment fund means:

(a) New construction of owner-occupied housing in a neighborhood and community with a demonstrated need for housing that is affordable and attractive to first-time homebuyers, middle-income families, and the emerging workforce;

(b) Substantial repair or rehabilitation of dilapidated housing stock; or

- (c) Upper-story housing development for occupation by a homeowner;
- (4) HOME funds means funds awarded as formula grants under the HOME Investment Partnerships Program administered by the United States Department of Housing and Urban Development;
- (5) Matching funds means dollars contributed by individuals, businesses, foundations, local and regional political subdivisions, or other nonprofit organizations to a workforce housing investment fund administered by a nonprofit development organization;
- (6) Nonprofit development organization means a regional or statewide nonprofit development organization approved by the director;
- (7) Qualified activities include purchase guarantees, loan guarantees, loan participations, and other credit enhancements related to eligible activities of the workforce housing investment fund;
- (8) Qualified investment means a cash investment in a workforce housing investment fund administered by a nonprofit development organization;
- (9) Urban community means any area that is:
- (a) In a county with a population greater than one hundred thousand inhabitants as determined by the most recent federal decennial census; and
- (b)(i) Within or adjacent to a qualified census tract as described in 26 U.S.C. 42(d)(5)(B), as such section existed on January 1, 2022; or
- (ii) Within a city of the primary class;
- (10) Workforce housing means:
- (a) Owner-occupied housing units that cost not more than three hundred thirty thousand dollars to construct. For purposes of this subdivision, housing unit costs shall be updated annually by the department based upon the most recent increase or decrease in the Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics;
- (b) Owner-occupied housing units for which the cost to substantially rehabilitate such units exceeds fifty percent of a unit's before-construction assessed value, and the after-construction appraised value of the building alone is at least one hundred twenty-five thousand dollars but not more than two hundred seventy-five thousand dollars. For purposes of this subdivision, housing unit after-construction appraised value shall be updated annually by the department based upon the most recent increase or decrease in the Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics;
- (c) Upper-story housing for occupation by a homeowner; and
- (d) Housing that does not receive federal or state low-income housing tax credits, community development block grants, HOME funds, or funds from the Affordable Housing Trust Fund; and
- (11) Workforce housing investment fund means a fund that has been created by a nonprofit development organization and certified by the director to encourage development of workforce housing in urban communities.

Source: Laws 2020, LB866, § 13; Laws 2022, LB1024, § 9; Laws 2023, LB531, § 32.

Operative date September 2, 2023.

81-1238 Workforce housing investment grant program; established; workforce housing grant; application; form; award; considerations; workforce housing investment fund; requirements.

(1) The director shall establish a workforce housing investment grant program to foster and support the development of workforce housing in urban communities.

(2) A nonprofit development organization may apply to the director for approval of a workforce housing grant for a workforce housing investment fund. The application shall be in a form and manner prescribed by the director. Through fiscal year 2026-27, grants shall be awarded by the director on a competitive basis until grant funds are no longer available. Grant maximums shall not exceed five million dollars to any one nonprofit development organization over a two-year period, with the cumulative amount for any single grantee to be determined by the department at the discretion of the director. An applicant shall provide matching funds of at least one-half of the amount of workforce housing grant funds awarded. Unallocated funds held by the department shall be rolled to the next program year.

(3) Grants shall be awarded based upon:

(a) A demonstrated need for additional owner-occupied housing. Need can be demonstrated with a recent housing study or a letter from the planning department of the city in which the fund is intending to operate stating that the proposal is in line with the city's most recent consolidated plan submitted under 24 C.F.R. part 91, subpart D, as such subpart existed on January 1, 2020;

(b) A neighborhood or community that has a higher-than-state-average unemployment rate;

(c) A neighborhood or community that exhibits a demonstrated commitment to growing its housing stock;

(d) Reducing barriers to the development and purchase of owner-occupied housing with flexible forms of assistance, including grants, forgivable loans, and other forms of long-term, patient financing;

(e) Projects that can reasonably be ready for occupancy in a period of twenty-four months; and

(f) A demonstrated ability to grow and manage a workforce housing investment fund.

(4) A workforce housing investment fund shall:

(a) Be required to receive annual certification from the department;

(b) Invest or intend to invest in eligible activities for a workforce housing investment fund;

(c) Use any fees, interest, loan repayments, or other funds received by the nonprofit development organization as a result of the administration of the grant to support qualified activities; and

(d) Have an active board of directors with expertise in development, construction, and finance that meets at least quarterly to approve all qualified investments made by the nonprofit development organization. A nonprofit development organization shall have a formal plan and proven expertise to invest unused workforce housing investment fund balances and shall conduct an annual audit of all financial records by an independent certified public accountant.

(5) A nonprofit development organization that has previously received a grant or grants under the Middle Income Workforce Housing Investment Act shall not be eligible for an additional grant under this section unless the organization has expended at least fifty percent of the funds from such previous grant or grants.

Source: Laws 2020, LB866, § 14; Laws 2022, LB1024, § 10; Laws 2022, LB1069, § 5; Laws 2023, LB531, § 33.
Operative date June 7, 2023.

81-1239 Middle Income Workforce Housing Investment Fund; created; use; investment; subaccount; purpose; return of grant funds; when required.

(1) The Middle Income Workforce Housing Investment Fund is created. Funding for the grant program described in section 81-1238 shall come from the Middle Income Workforce Housing Investment Fund. The Middle Income Workforce Housing Investment Fund may include revenue from appropriations from the Legislature, grants, private contributions, and other sources. Any money in the Middle Income Workforce Housing Investment 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 department shall establish a subaccount within the Middle Income Workforce Housing Investment Fund that shall be used to fund affordable housing and related land parcel preparation activities under the Economic Recovery Act as described in subdivisions (4)(e) and (4)(f) of section 81-12,241.

(3) The department shall administer the Middle Income Workforce Housing Investment Fund and may seek additional private or nonstate funds to use in the grant program, including, but not limited to, contributions from the Nebraska Investment Finance Authority and other interested parties.

(4) Interest earned by the department on grant funds shall be applied to the grant program.

(5) If a nonprofit development organization, or a recipient of subaccount funds described in subsection (2) of this section, fails to engage in a qualified activity within twenty-four months after receiving initial grant funding, the nonprofit development organization or recipient of subaccount funds shall return the grant proceeds to the department for credit to the General Fund.

(6) Beginning July 1, 2029, any funds held by the department in the Middle Income Workforce Housing Investment Fund shall be transferred to the General Fund.

Source: Laws 2020, LB866, § 15; Laws 2022, LB1024, § 11; Laws 2022, LB1069, § 6; Laws 2023, LB531, § 34.
Operative date June 7, 2023.

Cross References

Economic Recovery Act, see section 81-12,238.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

81-1240 Nonprofit development organization; annual report; contents; final report; failure to file; civil penalty; applicability of section.

(1) Each nonprofit development organization shall submit an annual report to the director to be included as a part of the department's annual status report

required under section 81-1201.11. The report shall certify that the workforce housing investment fund meets the requirements of the Middle Income Workforce Housing Investment Act and shall include a breakdown of program activities.

(2) The annual report shall include, but not be limited to:

(a) The name and geographical location of the nonprofit development organization;

(b) The number, amount, and type of workforce housing investment funds invested in qualified activities;

(c) The number, geographical location, type, and amount of investments made;

(d) A summary of matching funds and where such matching funds were generated; and

(e) The results of the annual audit required under subdivision (4)(d) of section 81-1238.

(3) If a nonprofit development organization ceases administration of a workforce housing investment fund, it shall file a final report with the director in a form and manner required by the director. Before July 1, 2029, any unallocated workforce housing investment fund grant funds shall be returned for credit to the Middle Income Workforce Housing Investment Fund. On and after July 1, 2029, any unallocated workforce housing investment fund grant funds shall be returned to the department for transfer to the General Fund.

(4) If a workforce housing investment fund fails to file a complete annual report by February 15, the director may, in his or her discretion, impose a civil penalty of not more than five thousand dollars for such violation. All money collected by the department 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.

(5) This section does not apply to the subaccount of the Middle Income Workforce Housing Investment Fund described in subsection (2) of section 81-1239.

Source: Laws 2020, LB866, § 16; Laws 2022, LB1024, § 12; Laws 2022, LB1069, § 7; Laws 2023, LB531, § 35.
Operative date June 7, 2023.

81-1243 Rules and regulations.

The department may adopt and promulgate rules and regulations to administer and enforce the Middle Income Workforce Housing Investment Act, including rules, regulations, and reporting requirements relating to proposals pursuant to subdivisions (4)(e) and (f) of section 81-12,241.

Source: Laws 2020, LB866, § 19; Laws 2023, LB531, § 36.
Operative date June 7, 2023.

(i) AGRICULTURAL PRODUCTS RESEARCH

81-1278 Repealed. Laws 2023, LB818, § 45.

81-1279 Repealed. Laws 2023, LB818, § 45.

81-1280 Repealed. Laws 2023, LB818, § 45.

(n) NEBRASKA INNOVATION HUB ACT

81-12,109 Innovation hub areas; department designate innovation hubs; limit on number.

(1) The department shall designate innovation hubs within iHub areas to stimulate partnerships, economic development, and job creation by leveraging iHub partner assets to provide an innovation platform for startup businesses, economic development organizations, business groups, and venture capitalists. The iHub partner assets may include, but are not limited to, research parks, technology incubators, universities, and federal laboratories.

(2) The department shall designate no more than four iHubs in the first congressional district, no more than three iHubs in the second congressional district, and no more than six iHubs in the third congressional district.

Source: Laws 2022, LB450, § 4; Laws 2023, LB531, § 37.
Operative date June 7, 2023.

81-12,110 Innovation hub; application; contents; fee; approval procedure; department; duties; memorandum of understanding; report.

(1) Except as provided in subsection (3) of this section, a private nonprofit corporation may apply to the director to become designated as an iHub. Applications shall be submitted on or after November 1, 2022, and before June 1, 2023. The application shall include, but not be limited to, the following:

- (a) A statement of purpose;
- (b) A signed statement of cooperation and a description of the roles and relationships of each iHub partner;
- (c) A clear explanation and map conveying the iHub area;
- (d) A clearly identified central location for the iHub, which shall be a physical location;
- (e) A complete budget, including a description of secured funds, pending funds, and potential future funding sources;
- (f) A clearly articulated iHub management structure and plan, which may include a description of the capabilities, qualifications, and experience of the proposed management team, team leaders, or key personnel who are critical to achieving the proposed objectives;
- (g) A list of iHub assets and resources;
- (h) A clearly articulated industry focus area of the iHub, including industry sectors or other targeted areas for development and growth;
- (i) A list of specific resources available to support and guide startup companies;
- (j) A five-year plan, which shall include a clearly articulated list of goals to be achieved with the designation of the iHub;
- (k) Defined performance standards agreed upon by the applicant and the proposed iHub partners, which may include expectations for job development and business creation;
- (l) Evaluation procedures that will be used to measure the level of achievement for each stated goal;
- (m) A plan for sustainability;

(n) Demonstrated experience with innovation programs, such as involvement with technology commercialization;

(o) Evidence of community engagement and support; and

(p) An application fee of one thousand dollars. The director shall remit all application fees received under this section to the State Treasurer for credit to the Innovation Hub Cash Fund.

(2) The department shall establish a weighted scoring system to evaluate applications for iHub designations with priority given to start-up nonprofits expressing new and innovative ideas. Such weighted scoring system shall consider, at a minimum:

(a) Whether the iHub is committed to serving underrepresented communities in the proposed iHub area;

(b) Whether the iHub has a plan for marketing and outreach to underrepresented communities in the proposed iHub area;

(c) Whether the iHub has signed statements of cooperation with at least three proposed iHub partners; and

(d) The quality of the iHub's five-year plan.

(3) The director shall determine whether or not to approve the requested iHub designation by no later than July 1, 2023. Each iHub designation shall be for a term of five years. An applicant that has received a grant under subdivision (4)(a) of section 81-12,241 shall not qualify for designation as an iHub.

(4) The iHub designation shall not be official until a memorandum of understanding is entered into by the applicant and the director. The memorandum of understanding shall include the goals and performance standards identified in the application and other related requirements as determined by the director.

(5) An iHub area may overlap with another iHub area if there is a clear distinction between the industry focus areas of the iHubs involved, except that no iHub located within a city of the metropolitan class shall be located within three miles of another iHub.

(6) The department shall set guidelines for approval, designation, operation, and reporting of iHubs.

(7) An iHub shall annually report to the director on its progress in meeting the goals and performance standards as described in the iHub application and the implementing memorandum of understanding with the director. The report shall also include information regarding the number of businesses served, the number of jobs created, and the amount of funds raised by the iHub. The director shall annually post the information from these reports on the department's website and provide notice to the Governor and the Legislature that the information is available on the website.

Source: Laws 2022, LB450, § 5; Laws 2023, LB531, § 38.

Operative date June 7, 2023.

(s) SITE AND BUILDING DEVELOPMENT ACT

81-12,147 Site and Building Development Fund; use; eligible activities.

(1) Except as provided in subsection (2) of this section, the Department of Economic Development shall use the Site and Building Development Fund to

finance loans, grants, subsidies, credit enhancements, and other financial assistance for industrial site and building development and for expenses of the department as appropriated by the Legislature for administering the fund. The following activities are eligible for assistance from the fund:

(a) Grants or zero-interest loans to villages, cities, or counties to acquire land, infuse infrastructure, or otherwise make large sites and buildings ready for industrial development;

(b) Matching funds for new construction, rehabilitation, or acquisition of land and buildings to assist villages, cities, and counties;

(c) Technical assistance, design and finance services, and consultation for villages, cities, and counties for the preparation and creation of industrial-ready sites and buildings;

(d) Loan guarantees for eligible projects;

(e) Projects making industrial-ready sites and buildings more accessible to business and industry;

(f) Infrastructure projects necessary for the development of industrial-ready sites and buildings;

(g) Projects that mitigate the economic impact of a closure or downsizing of a private-sector entity by making necessary improvements to buildings and infrastructure;

(h) Public and private sector initiatives that will improve the military value of military installations by making necessary improvements to buildings and infrastructure, including, but not limited to, a grant for the establishment of the United States Strategic Command Nuclear Command, Control, and Communications public-private-partnership facility;

(i) A grant to a city of the second class that is served by two first-class railroads, that is within fifteen miles of two state borders, and that partners with public power utilities for purposes of expanding electrical system capacities and enhancing redundancy and resilience;

(j) A grant of two million dollars to a city of the first class located in the first congressional district if the property previously housed a university or college that is no longer extant and if the improvement and revitalization of the real property is for purposes of supporting the housing, employment, and program needs of youth exiting the foster care system. In addition, the real property may be used for youth exiting juvenile court supervision in an out-of-home placement;

(k) Public and private sector initiatives that will improve the value of cities of the second class that have partnered with the United States Department of Defense or its contractors on upgrades to ground-based nuclear deterrence. Such improvements include the construction of electrical, drinking water, and clean water infrastructure; and

(l) Identification, evaluation, and development of large commercial and industrial sites and building infrastructure to attract major investment and employment opportunities for advanced manufacturing, processing, trade, technology, aerospace, automotive, clean energy, life science, and other transformational industries in Nebraska by means of the department providing grants to or partnering with political subdivisions, including inland port authorities under the Municipal Inland Port Authority Act, or nonprofit economic development corporations and entering into contracts for consulting, engineering, and

development studies to identify, evaluate, and develop large commercial and industrial sites in Nebraska.

(2) The Department of Economic Development shall use the subaccount of the Site and Building Development Fund described in subsection (2) of section 81-12,146 to provide financial assistance to any inland port authority created under the Municipal Inland Port Authority Act to help finance large shovel-ready commercial and industrial sites developed under such act.

Source: Laws 2011, LB388, § 4; Laws 2015, LB457, § 4; Laws 2018, LB96, § 1; Laws 2021, LB156, § 15; Laws 2022, LB977, § 1; Laws 2022, LB1012, § 18; Laws 2023, LB818, § 24.
Effective date May 25, 2023.

Cross References

Municipal Inland Port Authority Act, see section 13-3301.

81-12,148 Entities eligible to receive assistance; matching funds; requirements; exception; applicability of section.

(1) Governmental subdivisions and Nebraska nonprofit organizations are eligible to receive assistance under the Site and Building Development Act. Any entity receiving assistance under subsection (1) of section 81-12,147 shall 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 one hundred percent of the amount of assistance provided by the Site and Building Development Fund. Nothing in the act shall be construed to allow individuals or businesses to receive direct loans from the fund.

(2) An applicant for a grant for development of a public-private-partnership facility under subdivision (1)(h) of section 81-12,147 shall provide the Director of Economic Development with a letter of support from the United States Strategic Command prior to approval of the application and with proof of the availability of twenty million dollars in private or other funds for the facility. No funds shall be expended or grants awarded until receipt of proof of the availability of twenty million dollars in private or other funds for the facility and certification is provided by the Director of Economic Development to the budget administrator of the budget division of the Department of Administrative Services.

(3) An applicant for a grant for development under subdivision (1)(k) of section 81-12,147 is not required to meet the matching fund requirements pursuant to this section but shall provide the Director of Economic Development a letter from the United States Department of Defense or contractor providing upgrades to ground-based nuclear deterrence that infrastructure improvements, including the construction of electrical, drinking water, and clean water infrastructure, will not be included in the scope of the project. No grants shall be awarded or funds expended until such letter is received.

(4) This section does not apply to any inland port authority receiving assistance under subsection (2) of section 81-12,147.

Source: Laws 2011, LB388, § 5; Laws 2021, LB156, § 16; Laws 2022, LB1012, § 19; Laws 2023, LB818, § 25.
Effective date May 25, 2023.

(u) NEBRASKA TRANSFORMATIONAL PROJECTS ACT

81-12,182 Matching funds; eligibility; application; requirements; approval; deadlines.

(1) In order to be eligible to receive the matching funds allowed in the Nebraska Transformational Projects Act, the applicant shall file an application with the director, on a form developed by the director, requesting an agreement.

(2) The application shall:

(a) Identify the project, including the qualified location of such project, and state that the applicant is pursuing a partnership with the federal government pursuant to Title VII, Subtitle C, section 740 of Public Law 116-92 for the project;

(b) State the estimated, projected amount of total new investment at the project, which shall not be less than one billion six hundred million dollars, including the estimated, projected amount of private dollars and matching funds;

(c) Include an independent assessment of the economic impact to Nebraska from the project and its construction, which shall be performed by a professional economist or economics firm which is not in the regular employ of the applicant. The assessment must show, to the reasonable satisfaction of the director, an economic impact to Nebraska of at least two billion seven hundred million dollars during the planning and construction period and at least four billion six hundred million dollars during the ten-year period beginning either when construction is commenced or when the application is approved;

(d) Include approval of the project and of submission of the application by the governing body of the applicant. Approval of the project may be subject to other federal, state, and local government approvals needed to complete the project and subject to obtaining the funding, financing, and donations needed for the project;

(e) State the E-Verify number or numbers that will be used by the applicant for employees at the qualified location as provided by the United States Citizenship and Immigration Services; and

(f) Contain a nonrefundable application fee of twenty-five thousand dollars. The fee shall be remitted to the State Treasurer for credit to the Nebraska Transformational Project Fund.

(3) An application must be complete to establish the date of the application. An application shall be considered complete once it contains the items listed in subsection (2) of this section.

(4) Once satisfied that the application is complete and that the applicant is eligible to receive the matching funds allowed in the Nebraska Transformational Projects Act, the director shall approve the application.

(5) There shall be no new applications filed under this section after December 31, 2025. Any complete application filed on or before December 31, 2025, shall be considered by the director and approved if the location and applicant qualify for approval. Agreements may be executed with regard to any complete application filed on or before December 31, 2025.

Source: Laws 2020, LB1107, § 98; Laws 2023, LB727, § 102.
Operative date September 2, 2023.

(v) NEBRASKA RURAL PROJECTS ACT

81-12,203 Project, defined.

Project means expenses incurred or to be incurred at one qualified location for:

(1) Site acquisition and preparation, utility extensions, and rail spur construction for the development of a new industrial rail access business park, including any such expenses incurred to assist an initial tenant at such business park that conducts business in the manufacturing, processing, distribution, or transloading trades; or

(2) Site acquisition and preparation and rail spur construction within thirty miles of the largest reservoir in this state.

Source: Laws 2021, LB40, § 9; Laws 2023, LB531, § 39.
Operative date June 7, 2023.

81-12,211 Matching funds; receipt; conditions; exception; payment.

(1) Except as provided in subsection (2) of this section, an applicant shall, subject to section 81-12,213, be entitled to receive matching funds from the State of Nebraska as follows:

(a) For any amount of investment up to two million five hundred thousand dollars made by the applicant by the end of the transformational period, the applicant shall be entitled to receive two dollars of matching funds for each such dollar of investment; and

(b) For any amount of investment in excess of two million five hundred thousand dollars made by the applicant by the end of the transformational period, the applicant shall be entitled to receive five dollars of matching funds for each such dollar of investment.

(2) For any project described in subdivision (2) of section 81-12,203, the applicant shall be entitled to receive up to five million dollars of matching funds from the State of Nebraska without having to make any investment in the project. Any amount of matching funds in excess of five million dollars shall be paid in accordance with subsection (1) of this section.

(3) Subject to section 81-12,213, the state shall pay the available matching funds to the applicant on an annual basis.

Source: Laws 2021, LB40, § 17; Laws 2023, LB531, § 40.
Operative date June 7, 2023.

81-12,218 Nebraska Rural Projects Fund; created; use; investment.

(1) The Nebraska Rural Projects Fund is hereby created. The fund shall receive money from application fees paid under the Nebraska Rural Projects Act and from transfers authorized by the Legislature, grants, private contributions, repayments of matching funds, and all other sources. 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) Distributions of matching funds shall only be made from the fund in amounts determined pursuant to section 81-12,211.

Source: Laws 2021, LB40, § 24; Laws 2022, LB1012, § 26; Laws 2023, LB531, § 41.

Operative date June 7, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(w) SHOVEL-READY CAPITAL RECOVERY AND INVESTMENT ACT

81-12,220 Act; purpose.

The purpose of the Shovel-Ready Capital Recovery and Investment Act is to partner with the private sector by providing grants to qualified nonprofit organizations to assist such organizations with capital projects that have been delayed due to COVID-19 or that will provide a positive economic impact in the State of Nebraska.

Source: Laws 2021, LB566, § 2; Laws 2023, LB818, § 26.

Effective date May 25, 2023.

81-12,221 Terms, defined.

For purposes of the Shovel-Ready Capital Recovery and Investment Act:

(1) Capital project means a construction project to build, expand, or develop a new or existing facility or facilities or restoration work on a facility designated as a National Historic Landmark;

(2) Cost, in the context of a capital project, means the cost of land, engineering, architectural planning, contract services, construction, materials, and equipment needed to complete the capital project;

(3) COVID-19 means the novel coronavirus identified as SARS-CoV-2, the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating therefrom, and the health conditions or threats associated with the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating therefrom;

(4) Department means the Department of Economic Development;

(5) Qualified nonprofit organization means a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code that:

(a) Is related to arts, culture, or the humanities, including any organization formed for the purpose of developing and promoting the work of artists and the humanities in various visual and performing forms, such as film, sculpture, dance, painting, horticulture, multimedia, poetry, photography, performing arts, zoology, or botany;

(b) Operates a sports complex;

(c) Is a postsecondary educational institution in a city of the metropolitan class and partners with an organization hosting a regional or national event for purposes of infrastructure development related to furnishing and equipment for a health sciences education center, enhanced mobility by vacation of a public street, pedestrian safety, and construction of a community athletic complex; or

(d) Is a county agricultural society with facilities located within the boundaries of a city of the primary class;

- (6) Sports complex means property that:
- (a) Includes indoor areas, outdoor areas, or both;
 - (b) Is primarily used for competitive sports; and
 - (c) Contains multiple separate sports venues; and
- (7) Sports venue includes, but is not limited to:
- (a) A baseball field;
 - (b) A softball field;
 - (c) A soccer field;
 - (d) An outdoor stadium primarily used for competitive sports;
 - (e) An outdoor arena primarily used for competitive sports; and
 - (f) An enclosed, temperature-controlled building primarily used for competitive sports.

Source: Laws 2021, LB566, § 3; Laws 2023, LB531, § 42; Laws 2023, LB818, § 27.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB531, section 42, with LB818, section 27, to reflect all amendments.

Note: Changes made by LB531 became operative June 7, 2023. Changes made by LB818 became effective May 25, 2023.

81-12,222 Grant; application; approval; amount.

(1) Beginning July 1, 2023, through July 1, 2024, a qualified nonprofit organization may apply to the department for a grant under the Shovel-Ready Capital Recovery and Investment Act. The application shall include, but not be limited to, the following information:

- (a) A description of the qualified nonprofit organization's capital project;
- (b) The estimated cost of the capital project; and
- (c) Documentation on the amount of funds for the capital project which have been received or will be received by the qualified nonprofit organization from other sources. Such amount shall be at least equal to the amount of any grant received under the act. The documentation provided under this subdivision does not need to identify the names of any donors.

(2) The department shall consider applications in the order in which they are received. If an applicant is a qualified nonprofit organization and otherwise qualifies for funding under the Shovel-Ready Capital Recovery and Investment Act, the department shall, subject to subsection (3) of this section, approve the application and notify the applicant of the approval.

(3) The department may approve applications within the limits of available funding. The amount of any grant approved under this section shall be equal to the amount of funds to be supplied by the qualified nonprofit organization from other sources, as documented under subdivision (1)(c) of this section, subject to the following limitations:

- (a) For any capital project with an estimated cost of less than five hundred thousand dollars, the grant shall not exceed two hundred fifty thousand dollars;
- (b) For any capital project with an estimated cost of at least five hundred thousand dollars but less than five million dollars, the grant shall not exceed one million five hundred thousand dollars;

(c) For any capital project with an estimated cost of at least five million dollars but less than twenty-five million dollars, the grant shall not exceed five million dollars;

(d) For any capital project with an estimated cost of at least twenty-five million dollars but less than fifty million dollars, the grant shall not exceed ten million dollars;

(e) For any capital project with an estimated cost of at least fifty million dollars but less than one hundred million dollars, the grant shall not exceed fifteen million dollars; and

(f) For any capital project with an estimated cost of at least one hundred million dollars, the grant shall not exceed thirty million dollars.

Source: Laws 2021, LB566, § 4; Laws 2023, LB531, § 43; Laws 2023, LB818, § 28.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB531, section 43, with LB818, section 28, to reflect all amendments.

Note: Changes made by LB531 became operative June 7, 2023. Changes made by LB818 became effective May 25, 2023.

81-12,223 Qualified nonprofit organization; grant; requirements; repayment, when.

(1) Each qualified nonprofit organization that receives a grant under the Shovel-Ready Capital Recovery and Investment Act shall:

(a) Secure all of the other funds described in subdivision (1)(c) of section 81-12,222 through a written pledge or payment by December 31, 2024, and shall begin or resume construction on the organization's capital project by June 30, 2025; and

(b) Abide by the federal laws commonly known as the Davis-Bacon and Related Acts.

(2) Any qualified nonprofit organization that fails to meet the requirements of subsection (1) of this section shall repay any grant funds received under the act.

Source: Laws 2021, LB566, § 5; Laws 2023, LB531, § 44; Laws 2023, LB818, § 29.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB531, section 44, with LB818, section 29, to reflect all amendments.

Note: Changes made by LB531 became operative June 7, 2023. Changes made by LB818 became effective May 25, 2023.

81-12,225 Federal funds and cash funds; use; legislative intent; changes to sections; applicability.

(1) For any federal funds appropriated to the department pursuant to the Shovel-Ready Capital Recovery and Investment Act, it is the intent of the Legislature that the department divide the total appropriation for grants to capital projects eligible under the act equally for each congressional district and give priority to grant requests less than or equal to five million dollars. After eligible grantees with priority status have been awarded grant funds, remaining funds may be awarded on a statewide basis with the department considering each project based on the overall economic impact of the project to the respective community and the overall benefit to the State of Nebraska. It is the intent of the Legislature that the department make reasonable adjustments to dates and deadlines and request additional documentation pursuant to any requirements for the use of funds received pursuant to the federal American Rescue Plan Act of 2021.

(2) For any cash funds appropriated to the department pursuant to the Shovel-Ready Capital Recovery and Investment Act, it is the intent of the Legislature that the department divide the total appropriation for grants to capital projects eligible under the act as follows:

(a) Thirty million dollars for grants to nonprofit organizations holding a certificate of exemption under section 501(c)(3) of the Internal Revenue Code that are qualified nonprofit organizations under subdivision (5)(c) of section 81-12,221; and

(b) Remaining funds equally by each congressional district.

(3) The changes made in this section and sections 81-12,220, 81-12,221, 81-12,222, and 81-12,223 by Laws 2023, LB818, apply to all grant applications filed on or after July 1, 2023. For all applications filed prior to May 25, 2023, the provisions of the Shovel-Ready Capital Recovery and Investment Act as they existed immediately prior to such date apply.

(4) The changes made in this section and sections 81-12,220, 81-12,221, 81-12,222, and 81-12,223 by Laws 2023, LB531, apply to all grant applications filed on or after July 1, 2023. For all applications filed prior to June 7, 2023, the provisions of the Shovel-Ready Capital Recovery and Investment Act as they existed immediately prior to such date apply.

Source: Laws 2021, LB566, § 7; Laws 2023, LB531, § 45; Laws 2023, LB818, § 30.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB531, section 45, with LB818, section 30, to reflect all amendments.

Note: Changes made by LB531 became operative June 7, 2023. Changes made by LB818 became effective May 25, 2023.

(z) ECONOMIC RECOVERY ACT

81-12,238 Act, how cited.

Sections 81-12,238 to 81-12,244 shall be known and may be cited as the Economic Recovery Act.

Source: Laws 2022, LB1024, § 1; Laws 2023, LB531, § 46.
Operative date June 7, 2023.

81-12,240 Terms, defined.

For purposes of the Economic Recovery Act:

(1) Economic redevelopment area means an area in the State of Nebraska in which:

(a) The average rate of unemployment in the area during the period covered by the most recent federal decennial census or American Community Survey 5-Year Estimate by the United States Bureau of the Census is at least one hundred fifty percent of the average rate of unemployment in the state during the same period; and

(b) The average poverty rate in the area is twenty percent or more for the federal census tract in the area; and

(2) Qualified census tract means a qualified census tract as defined in 26 U.S.C. 42(d)(5)(B)(ii)(I), as such section existed on January 1, 2022.

Source: Laws 2022, LB1024, § 3; Laws 2023, LB531, § 47.
Operative date June 7, 2023.

81-12,241 Economic Recovery and Incentives Division; grants; payment; use; prioritize; Qualified Census Tract Recovery Grant Program; other grant funding; purposes; preparing land parcels; permitted activities; compliance with federal law; applicability to state-funded grants.

(1) A primary responsibility of the Economic Recovery and Incentives Division of the Department of Economic Development shall be to utilize federal or state funding to award grants as provided in this section. For grants awarded under this section, the division shall pay a grantee an advance of fifty percent of the total grant awarded with the remaining grant funds paid on a monthly basis until the grant is paid in full or by December 31, 2026, whichever occurs sooner. The division may (a) require a grantee to return unused grant funds upon a documented finding that such funds are not being used for the purpose for which the grant was awarded or (b) reduce any future monthly payments by the amount of such unused funds already paid.

(2) The division shall direct and prioritize the use of grants awarded under this section toward the economic recovery of those communities and neighborhoods within qualified census tracts or economic redevelopment areas located within the boundaries of a city of the metropolitan class that were disproportionately impacted by the COVID-19 public health emergency and related challenges, with an emphasis on housing needs, assistance for small businesses, job training, and business development within such communities and neighborhoods. In prioritizing the use of grants awarded within the boundaries of a city of the metropolitan class, the Economic Recovery and Incentives Division shall rely on any studies produced pursuant to section 81-12,242.

(3)(a) The Economic Recovery and Incentives Division shall create a Qualified Census Tract Recovery Grant Program to provide funding to public and private entities located within qualified census tracts throughout the state to respond to the negative impact of the COVID-19 public health emergency.

(b) Not to exceed ten million dollars in grants shall be distributed under the grant program to eligible grantees in qualified census tracts that are located in a city of the primary class.

(c) Not to exceed ten million dollars in grants shall be distributed under the grant program to eligible grantees in qualified census tracts that are located outside of a city of the metropolitan class or a city of the primary class.

(d)(i) All remaining funds shall be allocated for grants distributed under the grant program to eligible grantees in qualified census tracts that are located in a city of the metropolitan class.

(ii) Any funds not applied for within such areas may be allocated for grants to eligible grantees in any qualified census tract in such city.

(4) In addition to grants under the Qualified Census Tract Recovery Grant Program, the Economic Recovery and Incentives Division shall provide grant funding for the following purposes:

(a) Not to exceed ninety million dollars in grants to a nonprofit economic development organization for the development of a business park located within or adjacent to one or more qualified census tracts located within the boundaries of a city of the metropolitan class and within two miles of a major airport as defined in section 13-3303. An innovation hub as defined in section 81-12,108 shall not qualify for a grant under this subdivision;

(b) Not to exceed thirty million dollars in grants to one or more innovation hubs located within or adjacent to one or more qualified census tracts and within two miles of a major airport as defined in section 13-3303 providing services and resources within qualified census tracts located within the boundaries of a city of the metropolitan class;

(c) Not to exceed six million dollars in grants to a nonprofit organization partnering with a city of the metropolitan class for the purpose of providing internships and crime prevention within qualified census tracts located within the boundaries of such city;

(d) Not to exceed five million dollars in grants pursuant to the purposes of the Nebraska Film Office Fund on or before June 30, 2023, for the purpose of producing a film on Chief Standing Bear, a portion of which is to be filmed in one or more qualified census tracts located within the boundaries of a city of the metropolitan class;

(e) Not to exceed twenty million dollars in grants to public or private entities to prepare land parcels for affordable housing or conduct other eligible affordable housing interventions under the federal American Rescue Plan Act of 2021 including production, rehabilitation, and preservation of affordable rental housing and affordable homeownership units within qualified census tracts which are located in a city of the metropolitan class;

(f) Not to exceed twenty million dollars in grants to public or private entities to prepare land parcels for affordable housing or conduct other eligible affordable housing interventions under the federal American Rescue Plan Act of 2021 including production, rehabilitation, and preservation of affordable rental housing and affordable homeownership units within qualified census tracts which are located in a city of the primary class;

(g) Not to exceed five million dollars in grants to a county agricultural society with facilities within a city of the primary class to recoup lost revenue; and

(h) Not to exceed one million dollars in grants to a postsecondary institution located in a qualified census tract in a city of the metropolitan class to provide funding for a financial literacy program to improve economic and health outcomes for individuals residing in qualified census tracts.

(5) For purposes of subdivisions (4)(e) and (f) of this section, preparing land parcels shall include:

(a) Costs and fees associated with legal land surveys and structural assessments;

(b) Laying drinking water mains, lines, pipes, or channels;

(c) Development of access to essential utilities, such as sanitary sewer, electric, gas, and high-speed Internet;

(d) Rehabilitation, renovation, maintenance, or other costs to secure vacant or abandoned properties in disproportionately impacted communities;

(e) Acquiring and securing legal title of vacant or abandoned properties in disproportionately impacted communities;

(f) Testing, removal, and remediation of environmental contaminants or hazards from vacant or abandoned properties in disproportionately impacted communities when conducted in compliance with applicable environmental laws or regulations;

(g) Demolition or deconstruction of vacant or abandoned buildings in disproportionately impacted communities; and

(h) Costs associated with inspection fees and other administrative costs incurred to ensure compliance with applicable environmental laws and regulations for demolition or other remediation activities in disproportionately impacted communities.

(6) All grants made by the Economic Recovery and Incentives Division utilizing federal funds allocated to the State of Nebraska from the federal Coronavirus State Fiscal Recovery Fund under the federal American Rescue Plan Act of 2021 shall meet the eligible uses under such act and any relevant guidance on the use of such funds by the United States Department of the Treasury.

(7) All grants made by the Economic Recovery and Incentives Division utilizing state funds to carry out subsection (2) of section 81-1239 are subject to the intent and basic parameters of the federal American Rescue Plan Act of 2021 but are not subject to meet the time restraints for allocation and spending of funds or the federal reporting requirements indicated in the federal American Rescue Plan Act of 2021.

Source: Laws 2022, LB1024, § 4; Laws 2023, LB531, § 48; Laws 2023, LB818, § 31.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB531, section 48, with LB818, section 31, to reflect all amendments.

Note: Changes made by LB531 became operative June 7, 2023. Changes made by LB818 became effective May 25, 2023.

81-12,241.01 Economic Recovery and Incentives Division; North and South Omaha Recovery Grant Program; other grant funding; purposes; project; eligibility for grant; requirements; grants; payment.

(1)(a) The Economic Recovery and Incentives Division of the Department of Economic Development shall create and administer the North and South Omaha Recovery Grant Program to provide grants as provided in this section to public and private entities to respond to the negative impact of the COVID-19 public health emergency and build resilient and innovative communities.

(b) To be eligible for a grant under the North and South Omaha Recovery Grant Program, a project shall:

(i) Be listed in the coordination plan or appendices by the Economic Recovery Special Committee of the Legislature dated January 10, 2023; and

(ii) Explain how the grant will relieve the negative impact of the COVID-19 public health emergency within a qualified census tract or an economic redevelopment area located within the boundaries of a city of the metropolitan class and build resilient and innovative communities, with a priority on small business development, job creation, and economic development within such communities.

(2) When considering projects for grants under this section, the division shall use the coordination plan and appendices, dated January 10, 2023. Projects that would benefit communities and neighborhoods within qualified census tracts or economic redevelopment areas located within the boundaries of a city of the metropolitan class with a priority on small business development, job creation, and economic development within such communities and neighborhoods shall be prioritized.

(3) The division shall award additional grants for the following purposes:

(a) Not to exceed twenty million dollars in grants for the purpose of creating a museum located in one or more qualified census tracts located within the boundaries of a city of the metropolitan class and that is named in honor of a person inducted into the Nebraska Hall of Fame on or before September 1, 2023; and

(b) Not to exceed twenty million dollars in grants to federally qualified health centers located in a city of the metropolitan class. Such grants shall be used for persons receiving services under subsections (g), (h), or (i) of section 330 of the federal Public Health Service Act, 42 U.S.C. 254b, as such section existed on January 1, 2023.

(4) For grants awarded under this section, the division shall pay a grantee an advance of fifty percent of the total grant awarded with the remaining grant funds paid on a monthly basis until the grant is paid in full or by December 31, 2027, whichever occurs sooner. If a grantee does not use the grant funds paid, the division may (a) require such grantee to return such unused grant funds upon a documented finding that such funds have not been used or (b) reduce any future monthly payments by the amount of such unused grant funds already paid.

Source: Laws 2023, LB531, § 51.
Operative date June 7, 2023.

81-12,243 Economic Recovery Contingency Fund; created; use; prioritize; investment.

(1) The Economic Recovery Contingency Fund is created. The fund shall consist of transfers by the Legislature to carry out the Economic Recovery Act. 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. Investment earnings on and after July 1, 2023, shall be credited to the fund.

(2) The Department of Economic Development may review the projects listed in the coordination plan and the appendices by the Economic Recovery Special Committee of the Legislature dated January 10, 2023, and shall prioritize the use of the fund on projects listed in the coordination plan followed by the projects in the appendices.

Source: Laws 2022, LB1024, § 6; Laws 2023, LB531, § 49; Laws 2023, LB818, § 32.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB531, section 49, with LB818, section 32, to reflect all amendments.

Note: Changes made by LB531 became operative June 7, 2023. Changes made by LB818 became effective May 25, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-12,244 Appropriations and transfers of funds; legislative intent; use; restrictions.

(1) It is the intent of the Legislature to appropriate ten million dollars from the General Fund for fiscal year 2023-24 to the Department of Economic Development to carry out the Economic Recovery Act. The department may use

not more than ten million dollars of such money for the administration of the Economic Recovery Act.

(2) The State Treasurer shall transfer (a) any interest earned after April 19, 2022, on federal funds allocated to the State of Nebraska from the federal Coronavirus State Fiscal Recovery Fund pursuant to the federal American Rescue Plan Act of 2021, 42 U.S.C. 802, as amended, to the Economic Recovery Contingency Fund between June 1, 2023, and June 30, 2023, and on or before June 30 each year thereafter, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services, and (b) any investment earnings from the investment of money in (i) the Perkins County Canal Project Fund pursuant to section 61-305 and (ii) the Nebraska Capital Construction Fund from transfers credited to such fund that are designated for the construction of a new state prison pursuant to section 72-1001 to the Economic Recovery Contingency Fund between June 1, 2023, and June 30, 2023, and on or before June 30 each year thereafter through June 30, 2026, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(3) It is the intent of the Legislature that any unobligated amount as of July 1, 2024, of the federal funds allocated to the State of Nebraska from the federal Coronavirus State Fiscal Recovery Fund pursuant to the federal American Rescue Plan Act of 2021, 42 U.S.C. 802, as amended, be appropriated to the Department of Economic Development to carry out the Economic Recovery Act no later than August 1, 2024.

(4) It is the intent of the Legislature to appropriate ten million dollars from the General Fund to the Department of Economic Development for fiscal year 2022-23 to provide grants under the Economic Recovery Act.

(5) It is the intent of the Legislature to transfer ten million dollars from the General Fund to the Economic Recovery Contingency Fund for fiscal year 2023-24 and ten million dollars from the General Fund to the Economic Recovery Contingency Fund for fiscal year 2024-25 to provide grants under the Economic Recovery Act.

Source: Laws 2022, LB1024, § 7; Laws 2023, LB531, § 50.
Operative date June 7, 2023.

(aa) FEDERAL CORONAVIRUS CAPITAL PROJECTS FUND

81-12,245 Department of Economic Development; use of funds; restrictions; grant applications; priorities.

(1) The Department of Economic Development shall use any funds received from the federal Coronavirus Capital Projects Fund under the federal American Rescue Plan Act of 2021 as follows:

(a) No more than thirty-five million dollars to eligible projects that are located within a congressional district which contains a city of the metropolitan class. Within a city of the metropolitan class, grants shall be given to multipurpose community facilities;

(b) No less than forty million dollars to eligible projects that are located within a congressional district which contains a city of the primary class;

(c) No less than forty million dollars to eligible projects that are located within a congressional district which does not contain a city of the metropoli-

tan class or a city of the primary class. Grants under this subdivision shall be awarded to eligible projects in cities of the second class and villages; and

(d) No more than five million dollars of such federal funds for the administration by the department of funds received from the federal Coronavirus Capital Projects Fund under the federal American Rescue Plan Act of 2021.

(2) Any funds received from the federal Coronavirus Capital Projects Fund under the federal American Rescue Plan Act of 2021 utilized for eligible broadband infrastructure projects shall be administered in a manner consistent with the Nebraska Broadband Bridge Act, except that the matching funds requirement in section 86-1304 shall not apply to such federal funding for broadband projects.

(3) The department shall, beginning July 1, 2022, through July 15, 2022, allow a qualified public or private entity to apply for a grant using funds received from the federal Coronavirus Capital Projects Fund under the federal American Rescue Plan Act of 2021. The department may open additional grant application periods as needed until all funds are allocated.

(4) Grants under subdivision (1)(a) of this section shall be restricted to eligible projects located within or adjacent to one or more qualified census tracts or economic redevelopment areas as defined in section 81-12,153 in a city of the metropolitan class. Priority for grants under subdivision (1)(a) of this section shall be given to a city of the metropolitan class in partnership with a nonprofit organization for eligible projects for the rehabilitation or expansion of existing multipurpose community facilities.

Source: Laws 2022, LB1024, § 13; Laws 2023, LB727, § 103.
Operative date June 7, 2023.

Cross References

Nebraska Broadband Bridge Act, see section 86-1301.

ARTICLE 15

ENVIRONMENT AND ENERGY

(l) WASTE REDUCTION AND RECYCLING

Section 81-15,160. Waste Reduction and Recycling Incentive Fund; created; use; investment; grants; restrictions.

(n) NEBRASKA ENVIRONMENTAL TRUST ACT

81-15,174. Nebraska Environmental Trust Fund; created; use; investment.

(l) WASTE REDUCTION AND RECYCLING

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 first class, 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, 2029, 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; Laws 2022, LB809, § 11; Laws 2023, LB565, § 46.
Operative date September 2, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(n) NEBRASKA ENVIRONMENTAL TRUST ACT

81-15,174 Nebraska Environmental Trust Fund; created; use; investment.

The Nebraska Environmental Trust Fund is created. The fund shall be maintained in the state accounting system as a cash fund. Except as otherwise provided in this section, the fund shall be used to carry out the purposes of the

Nebraska Environmental Trust Act, including the payment of administrative costs. Money in the fund shall include proceeds credited pursuant to section 9-812 and proceeds designated by the board pursuant to section 81-15,173. Transfers may be made from the Nebraska Environmental Trust Fund to the Water Resources Cash Fund at the direction of the Legislature, and any money so transferred shall be expended in accordance with section 81-15,168. 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 1992, LB 1257, § 51; Laws 1994, LB 1066, § 124; Laws 2000, LB 957, § 10; Laws 2002, Second Spec. Sess., LB 1, § 8; Laws 2003, LB 408, § 6; Laws 2004, LB 962, § 111; Laws 2006, LB 1061, § 12; Laws 2011, LB229, § 2; Laws 2023, LB818, § 33.

Effective date May 25, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

Water Resources Cash Fund, see section 61-218.

ARTICLE 18

CRIME VICTIMS AND WITNESSES

(a) CRIME VICTIM'S REPARATIONS

Section

81-1821. Payment of compensation; application; requirements; deadlines; exceptions.

(b) CRIME VICTIMS AND WITNESSES ASSISTANCE

81-1850. County attorney; Board of Parole; Department of Correctional Services; county corrections agency; Department of Health and Human Services; Board of Pardons; duties; notification of victim.

(a) CRIME VICTIM'S REPARATIONS

81-1821 Payment of compensation; application; requirements; deadlines; exceptions.

(1) Except as provided in subsections (3) and (4) of this section, no order for the payment of compensation shall be entered under the Nebraska Crime Victim's Reparations Act unless:

(a) The application has been submitted to the committee within the deadline provided in subsection (2) of this section; and

(b) The personal injury or death was the result of an incident or offense which had been reported to the police within five days of its occurrence or, if the incident or offense could not reasonably have been reported within that period, within five days of the time when a report could reasonably have been made.

(2) An application shall be submitted to the committee:

(a) For a victim who was nineteen years of age or older at the time of the personal injury or death, within two years after the date of the personal injury or death;

(b) For a victim who was under nineteen years of age at the time of death, within three years after the date of death; and

(c) For a victim who was under nineteen years of age at the time of the personal injury, on or before the victim's twenty-second birthday.

(3) The committee may evaluate applications submitted beyond the deadline established in this section if the committee finds that good cause existed for missing such deadline.

(4) An application submitted by or for a victim of sexual assault, domestic assault, child abuse, or sex trafficking is not subject to the five-day reporting requirement in subsection (1) of this section if, prior to submitting the application the:

(a) Applicant or victim has reported such crime to the police;

(b) Applicant or victim has obtained a protection order related to such incident or offense; or

(c) Victim has presented for a forensic medical exam.

Source: Laws 1978, LB 910, § 21; Laws 1986, LB 540, § 22; Laws 2021, LB372, § 2; Laws 2023, LB157, § 15.
Operative date September 2, 2023.

(b) CRIME VICTIMS AND WITNESSES ASSISTANCE

81-1850 County attorney; Board of Parole; Department of Correctional Services; county corrections agency; Department of Health and Human Services; Board of Pardons; duties; notification of victim.

(1) For purposes of this section:

(a) Covered offense means:

(i) Murder in the first degree pursuant to section 28-303;

(ii) Murder in the second degree pursuant to section 28-304;

(iii) Kidnapping pursuant to section 28-313;

(iv) Assault in the first degree pursuant to section 28-308;

(v) Assault in the second degree pursuant to section 28-309;

(vi) Sexual assault in the first degree pursuant to section 28-319;

(vii) Sexual assault in the second degree pursuant to section 28-320;

(viii) Sexual assault of a child in the first degree pursuant to section 28-319.01;

(ix) Sexual assault of a child in the second or third degree pursuant to section 28-320.01;

(x) Stalking pursuant to section 28-311.03; or

(xi) An attempt, solicitation, or conspiracy to commit an offense listed in this subdivision (a); and

(b) Victim has the same meaning as in section 29-119.

(2)(a) Except as provided in subdivision (2)(b) of this section, when a person is convicted of a felony, the county attorney shall forward the name and address of any victim of such convicted person to the Board of Parole, the Department of Correctional Services, the county corrections agency, the De-

partment of Health and Human Services, and the Board of Pardons, as applicable.

(b) A victim may waive the right to notification under this section by notifying the county attorney, in which case the county attorney is not required to comply with subdivision (2)(a) of this section.

(c) The Board of Parole, the Department of Correctional Services, the county corrections agency, the Department of Health and Human Services, and the Board of Pardons shall include the victim's name in the file of the convicted person, but the name shall not be part of the public record of any parole or pardons hearings of the convicted person.

(d) Any victim, including a victim who has waived his or her right to notification, may request the notification prescribed in this section, as applicable, by sending a written request to the Board of Parole, the Department of Correctional Services, the county corrections agency, the Department of Health and Human Services, or the Board of Pardons any time after the convicted person is incarcerated and until the convicted person is no longer under the jurisdiction of the Board of Parole, the county corrections agency, the Department of Correctional Services, or the Board of Pardons or, if the convicted person is under the jurisdiction of the Department of Health and Human Services, within the three-year period after the convicted person is no longer under the jurisdiction of the Board of Parole, the county corrections agency, the Department of Correctional Services, or the Board of Pardons.

(3) A victim whose name appears in the file of the convicted person shall be notified by the Board of Parole:

(a) Within ninety days after conviction of an offender, of the tentative date of release and the earliest parole eligibility date of such offender;

(b) Of any parole hearings or proceedings;

(c) Of any decision of the Board of Parole;

(d) When a convicted person who is on parole is returned to custody because of parole violations; and

(e) If the convicted person has been adjudged a mentally disordered sex offender or is a convicted sex offender, when such convicted person is released from custody or treatment.

Such notification shall be given in person, by telecommunication, or by mail.

(4) A victim whose name appears in the file of the convicted person shall be notified by the Department of Correctional Services or a county corrections agency:

(a) When a convicted person is granted a furlough or release from incarceration for twenty-four hours or longer or any transfer of the convicted person to community status;

(b) When a convicted person is released into community-based programs, including educational release and work release programs. Such notification shall occur at the beginning and termination of any such program;

(c) When a convicted person escapes or does not return from a granted furlough or release and again when the convicted person is returned into custody;

(d) When a convicted person is discharged from custody upon completion of his or her sentence. Such notice shall be given at least thirty days before discharge, when practicable;

(e) Of the (i) department's calculation of the earliest parole eligibility date of the prisoner with all potential good time or disciplinary credits considered if the sentence exceeds ninety days or (ii) county corrections agency's calculation of the earliest release date of the prisoner. The victim may request one notice of the calculation described in this subdivision. Such information shall be mailed not later than thirty days after receipt of the request;

(f) Of any reduction in the prisoner's minimum sentence; and

(g) Of the victim's right to submit a statement as provided in section 81-1848.

(5) A victim whose name appears in the file of a convicted person shall be notified by the Department of Health and Human Services:

(a) When a person described in subsection (6) of this section becomes the subject of a petition pursuant to the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act prior to his or her discharge from custody upon the completion of his or her sentence or within thirty days after such discharge. The county attorney who filed the petition shall notify the Department of Correctional Services of such petition. The Department of Correctional Services shall forward the names and addresses of victims appearing in the file of the convicted person to the Department of Health and Human Services; and

(b) When a person under a mental health board commitment pursuant to subdivision (a) of this subsection:

(i) Escapes from an inpatient facility providing board-ordered treatment and again when the person is returned to an inpatient facility;

(ii) Is discharged or has a change in disposition from inpatient board-ordered treatment;

(iii) Is granted a furlough or release for twenty-four hours or longer; and

(iv) Is released into educational release programs or work release programs. Such notification shall occur at the beginning and termination of any such program.

(6) Subsection (5) of this section applies to a person convicted of a covered offense which is also alleged to be the recent act or threat underlying the commitment of such person as mentally ill and dangerous or as a dangerous sex offender as defined in section 83-174.01.

(7) A victim whose name appears in the file of a person convicted of a covered offense shall be notified, via certified mail, by the Board of Pardons:

(a) Of any pardon or commutation proceedings at least thirty calendar days prior to the proceedings; and

(b) If a pardon or commutation has been granted, within ten days after such granting.

(8) The Board of Parole, the Department of Correctional Services, the Department of Health and Human Services, and the Board of Pardons shall adopt and promulgate rules and regulations as needed to carry out this section.

(9) The victim's address and telephone number maintained by the Department of Correctional Services, the Department of Health and Human Services, the county corrections agency, the Board of Parole, and the Board of Pardons pursuant to subsection (2) of this section shall be exempt from disclosure under

public records laws and federal freedom of information laws, as such laws existed on January 1, 2004.

Source: Laws 1991, LB 186, § 4; Laws 1992, LB 523, § 16; Laws 1997, LB 325, § 1; Laws 2004, LB 270, § 16; Laws 2004, LB 1083, § 127; Laws 2006, LB 1199, § 85; Laws 2023, LB50, § 43.
Effective date September 2, 2023.

Cross References

Nebraska Mental Health Commitment Act, see section 71-901.

Sex Offender Commitment Act, see section 71-1201.

ARTICLE 20

NEBRASKA STATE PATROL

(b) RETIREMENT SYSTEM

Section

81-2014. Terms, defined.

81-2034. Retirement; method of crediting for military service; effect; applicability.

(b) RETIREMENT SYSTEM

81-2014 Terms, defined.

For purposes of the Nebraska State Patrol Retirement Act:

(1)(a) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment or to be received at an earlier retirement age than the normal retirement age.

(b) For an officer hired before July 1, 2017, the determinations shall be based on the 1994 Group Annuity Mortality Table reflecting sex-distinct factors blended using seventy-five percent of the male table and twenty-five percent of the female table. An interest rate of eight percent per annum shall be reflected in making the determinations until such percent is amended by the Legislature.

(c) For an officer 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 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 officer'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;

(2) Board means the Public Employees Retirement Board;

(3)(a)(i) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, per diems, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125 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.

(ii) For any officer employed on or prior to January 4, 1979, compensation includes compensation for unused sick leave or unused vacation leave converted to cash payments.

(iii) For any officer employed after January 4, 1979, and prior to July 1, 2016, compensation does not include compensation for unused sick leave or unused vacation leave converted to cash payments and includes compensation for unused holiday compensatory time and unused compensatory time converted to cash payments.

(iv) For any officer employed on or after July 1, 2016, compensation does not include compensation for unused sick leave, unused vacation leave, unused holiday compensatory time, unused compensatory time, or any other type of unused leave, compensatory time, or similar benefits, converted to cash payments.

(b) 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;

(4) Creditable service means service granted pursuant to section 81-2034 and all service rendered while a contributing member of the retirement system. Creditable service includes working days, sick days, vacation days, holidays, and any other leave days for which the officer is paid regular wages except as specifically provided in the Nebraska State Patrol Retirement Act. Creditable service does not include eligibility and vesting credit nor service years for which member contributions are withdrawn and not repaid;

(5) Current benefit means the initial benefit increased by all adjustments made pursuant to the Nebraska State Patrol Retirement Act;

(6) DROP means the deferred retirement option plan as provided in section 81-2041;

(7) DROP account means an individual DROP participant's defined contribution account under section 414(k) of the Internal Revenue Code;

(8) DROP period means the amount of time the member elects to participate in DROP which shall be for a period not to exceed five years from and after the date of the member's DROP election;

(9) 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 Nebraska State Patrol Retirement Act. Such credit shall be used toward the vesting percentage pursuant to subsection (2) of section 81-2031 but shall not be included as years of service in the benefit calculation;

(10) Hire date or date of hire means the first day of compensated service subject to retirement contributions;

(11) Initial benefit means the retirement benefit calculated at the time of retirement;

(12) Officer means law enforcement officer as defined in section 81-1401 and as provided for in sections 81-2001 to 81-2009, but does not include a noncertified conditional officer as defined in section 81-1401;

(13) Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

(14) 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;

(15) Required beginning date means, for purposes of the deferral of distributions and the commencement of mandatory distributions pursuant to section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder, April 1 of the year following the calendar year in which a member:

(a)(i) Terminated employment with the State of Nebraska; and

(ii)(A) Attained at least seventy and one-half years of age for a member who attained seventy and one-half years of age on or before December 31, 2019;

(B) Attained at least seventy-two years of age for a member who attained seventy and one-half years of age on or after January 1, 2020, and prior to January 1, 2023;

(C) Attained at least seventy-three years of age for a member who attained seventy-two years of age after December 31, 2022, and seventy-three years of age prior to January 1, 2033; or

(D) Attained at least seventy-five years of age for a member who attained seventy-four years of age after December 31, 2032; or

(b)(i) Terminated employment with the State of Nebraska; and

(ii) Otherwise reached the date specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder;

(16) 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;

(17) Retirement date means (a) the first day of the month following the date upon which a member's request for retirement is received on a retirement application if the member is eligible for retirement and has terminated employment or (b) the first day of the month following termination of employment if the member is eligible for retirement and has filed an application but has not yet terminated employment;

(18) Retirement system or system means the Nebraska State Patrol Retirement System as provided in the act;

(19) Service means employment as a member of the Nebraska State Patrol and shall not be deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the board. Service does not include any period of disability for which disability retirement benefits are received under subsection (1) of section 81-2025;

(20) Surviving spouse means (a) the spouse married to the member on the date of the member's death if married for at least one year prior to death or if

married on the date of the member's retirement 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; and

(21) Termination of employment occurs on the date on which the Nebraska State Patrol determines that the officer's employer-employee relationship with the patrol is dissolved. The Nebraska State Patrol shall notify the board of the date on which such a termination has occurred. Termination of employment does not include ceasing employment with the Nebraska State Patrol if the officer returns to regular employment with the Nebraska State Patrol or another agency of the State of Nebraska and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased and the date when the employer-employee relationship commenced with the Nebraska State Patrol or another state agency. Termination of employment does not occur upon an officer's participation in DROP pursuant to section 81-2041. It is the responsibility of the employer that is involved in the termination of employment to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a retirement benefit has been paid to a member of the retirement system pursuant to section 81-2026, the board shall require the member who has received such benefit to repay the benefit to the retirement system.

Source: Laws 1947, c. 211, § 1, p. 687; Laws 1969, c. 511, § 1, p. 2092; R.S.1943, (1978), § 60-441; Laws 1989, LB 506, § 13; Laws 1991, LB 549, § 47; Laws 1994, LB 833, § 34; Laws 1995, LB 501, § 7; Laws 1996, LB 700, § 13; Laws 1996, LB 847, § 34; Laws 1996, LB 1076, § 32; Laws 1996, LB 1273, § 27; Laws 1997, LB 624, § 27; Laws 1999, LB 674, § 7; Laws 2000, LB 1192, § 19; Laws 2001, LB 408, § 19; Laws 2002, LB 470, § 7; Laws 2003, LB 451, § 21; Laws 2007, LB324, § 1; Laws 2012, LB916, § 28; Laws 2013, LB263, § 30; Laws 2016, LB467, § 1; Laws 2017, LB415, § 42; Laws 2018, LB1005, § 35; Laws 2020, LB1054, § 9; Laws 2021, LB51, § 23; Laws 2023, LB103, § 11.
Operative date May 2, 2023.

Cross References

Spousal Pension Rights Act, see section 42-1101.

81-2034 Retirement; method of crediting for military service; effect; applicability.

(1)(a) Any officer of the Nebraska State Patrol who is reemployed pursuant to 38 U.S.C. 4301 et seq., shall be treated as not having incurred a break in service by reason of the officer's period of military service. Such military service shall be credited for purposes of determining the nonforfeitability of the officer's accrued benefits and the accrual of benefits under the plan.

(b) The state shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service. To satisfy the liability, the Nebraska State Patrol shall pay to the retirement system an amount equal to:

(i) The sum of the officer and employer contributions that would have been paid during such period of military service; and

(ii) Any actuarial costs necessary to fund the obligation of the plan to provide benefits based upon such period of military service. For the purposes of determining the amount of such liability and obligation of the plan, earnings and forfeitures, gains and losses, regular interest, or interest credits that would have accrued on the officer and employer contributions that are paid by the Nebraska State Patrol pursuant to this section shall not be included.

(c) The amount required in subdivision (b) of this subsection shall be paid to the retirement system as soon as reasonably practicable following the date of reemployment, but must be paid within eighteen months of the date the board notifies the Nebraska State Patrol of the amount due. If the Nebraska State Patrol fails to pay the required amount within such eighteen-month period, then the Nebraska State Patrol is also responsible for any actuarial costs and interest on actuarial costs that accrue from eighteen months after the date the Nebraska State Patrol is notified by the board until the date the amount is paid.

(d) The board may adopt and promulgate rules and regulations to carry out this subsection, including, but not limited to, rules and regulations on:

(i) How and when the officer and Nebraska State Patrol must notify the retirement system of a period of military service;

(ii) The acceptable methods of payment;

(iii) Determining the service and compensation upon which the contributions must be made;

(iv) Accelerating the payment from the employer due to unforeseen circumstances that occur before payment is made pursuant to this section, including, but not limited to, the officer's termination or retirement or the employer's reorganization, consolidation, merger, or closing; and

(v) The documentation required to substantiate that the officer was reemployed pursuant to 38 U.S.C. 4301 et seq.

(2) This section applies to military service that falls within the definition of uniformed services under 38 U.S.C. 4301 et seq., and includes (a) preparation periods prior to military service, (b) periods during military service, (c) periods of rest and recovery authorized by 38 U.S.C. 4301 et seq., after military service, (d) periods of federal military service, and (e) periods during active service of the state provided pursuant to sections 55-101 to 55-181.

Source: Laws 1949, c. 177, § 1, p. 481; Laws 1967, c. 391, § 5, p. 1216; Laws 1971, LB 987, § 15; R.S.1943, (1978), § 60-461; Laws 1991, LB 549, § 59; Laws 1996, LB 847, § 38; Laws 2017, LB415, § 44; Laws 2023, LB103, § 12.

Operative date May 2, 2023.

ARTICLE 31

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Section

81-3141. Limited Temporary Guardian Aid Program; covered county; state aid; legislative intent regarding appropriations.

Section

81-3142. HCBS Enhanced FMAP Fund; created; use; investment.

81-3143. Department of Health and Human Services; Temporary Assistance for Needy Families program; funds; state plan amendment.

81-3141 Limited Temporary Guardian Aid Program; covered county; state aid; legislative intent regarding appropriations.

(1) For purposes of this section:

(a) Covered county means a county containing a city of the metropolitan class or a city of the primary class; and

(b) Department means the Department of Health and Human Services.

(2) There is created a separate and distinct budgetary subprogram within the department to be known as the Limited Temporary Guardian Aid Program. Funds appropriated for the program shall be used to provide state aid to counties in the form of reimbursement to covered counties as provided in this section.

(3) A covered county that has paid expenses and fees for limited temporary guardians as provided in subdivision (k)(2) of section 30-2626 may apply to the department for reimbursement for such amounts and for reasonable administrative fees incurred by the county in paying such amounts and applying for reimbursement. The application shall be in a form and manner prescribed by the department and shall be submitted on a quarterly basis.

(4) It is the intent of the Legislature to appropriate the following amounts to the department to carry out the Limited Temporary Guardian Aid Program:

(a) For fiscal year 2024-25:

(i) One hundred sixty thousand dollars for state aid to covered counties containing a city of the metropolitan class; and

(ii) Ninety thousand dollars for state aid to covered counties containing a city of the primary class; and

(b) For fiscal year 2025-26:

(i) One hundred sixty thousand dollars for state aid to covered counties containing a city of the metropolitan class; and

(ii) Ninety thousand dollars for state aid to covered counties containing a city of the primary class.

(5) The department may adopt and promulgate rules and regulations as necessary to carry out this section.

Source: Laws 2023, LB157, § 10.

Operative date September 2, 2023.

Cross References

Appointment of limited temporary guardian, see section 30-2626.

81-3142 HCBS Enhanced FMAP Fund; created; use; investment.

The HCBS Enhanced FMAP Fund is created. The fund shall be used to enhance and expand home and community-based services (HCBS) spending as outlined in the federal American Rescue Plan Act of 2021, 42 U.S.C. 802, as amended. The fund shall be administered by the Department of Health and Human Services. The fund shall consist of transfers authorized by the Legislature and any gifts, grants, or bequests for such purposes from any source,

including federal, state, public, and private sources. Any money in the fund available for investment may be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2023, LB818, § 37.
Effective date May 25, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-3143 Department of Health and Human Services; Temporary Assistance for Needy Families program; funds; state plan amendment.

The Department of Health and Human Services shall submit a state plan amendment to the federal Administration for Children and Families, pursuant to section 404(a)(2) of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, to allow the funds provided to the state for the Temporary Assistance for Needy Families program established in 42 U.S.C. 601 et seq., as such sections existed on January 1, 2023, to be used for the following purposes:

- (1) Activities of child advocacy centers pursuant to sections 28-728 to 28-730;
- (2) Coordination activities of the state chapter of child advocacy centers as defined in 34 U.S.C. 20302, as such section existed on January 1, 2023, including, but not limited to, development of a distribution formula for funding provided pursuant to subdivision (1) of this section, data collection and analysis required for reports to the federal Administration for Children and Families, accounting of the fund expenditures per state and federal requirements, and preparing the annual Temporary Assistance for Needy Families reports for funds appropriated pursuant to this subdivision and subdivision (1) of this section, which shall be filed with the Department of Health and Human Services on a date specified by the department;
- (3) Domestic violence services; and
- (4) Grants to nonprofit organizations holding a certificate of exemption under section 501(c)(3) of the Internal Revenue Code that distribute food in ten or more counties in Nebraska and qualify for the Emergency Food Assistance Program administered by the United States Department of Agriculture, which shall be applicable for FY2023-24 only.

Source: Laws 2023, LB818, § 38.
Effective date May 25, 2023.

ARTICLE 37

NEBRASKA VISITORS DEVELOPMENT ACT

Section

- 81-3717. County Visitors Promotion Fund; County Visitors Improvement Fund; visitors committee; establishment; purpose.
- 81-3720. County Visitors Improvement Fund; use; visitor attraction, defined.

81-3717 County Visitors Promotion Fund; County Visitors Improvement Fund; visitors committee; establishment; purpose.

(1) The governing body of the county shall after a public hearing adopt a resolution establishing a County Visitors Promotion Fund and a visitors com-

mittee which shall serve as an advisory committee to the governing body in administering the proceeds from the taxes provided to the county by the Nebraska Visitors Development Act. The governing body of a county may also after a public hearing adopt a resolution establishing a County Visitors Improvement Fund. The proceeds of the County Visitors Promotion Fund shall be used generally to promote, encourage, and attract visitors to come to the county and use the travel and tourism facilities within the county. The proceeds of the County Visitors Improvement Fund shall be used to improve the visitor attractions and facilities in the county, except that no proceeds shall be used to improve a facility in which parimutuel wagering is conducted unless such facility also serves as the site of a state fair or district or county agricultural society fair. If the visitors committee determines that the visitor attractions in the county are adequate and do not require improvement, the governing body of the county, with the advice of the committee, may only use the County Visitors Improvement Fund to promote, encourage, and attract visitors to the county to use the county's travel and tourism facilities or, with the advice of the visitors committee, make grants to organizations to promote, encourage, and attract visitors to the county to use the county's travel and tourism facilities. The committee shall consist of five or seven members appointed by the governing body of the county. If the committee has five members, at least one but no more than two members of the committee shall be in the hotel industry. If the committee has seven members, at least two but no more than three members of the committee shall be in the hotel industry.

(2) The members of the committee shall serve without compensation, except for reimbursement for necessary expenses. Committee members shall serve for terms of four years, except that at least half of those appointed shall be appointed for initial terms of two years. Vacancies shall be filled in the same manner as the initial appointments. The committee shall elect a chairperson and vice-chairperson from among its members to serve for terms of two years.

Source: Laws 1980, LB 499, § 11; Laws 1988, LB 797, § 4; Laws 1989, LB 262, § 4; Laws 1999, LB 499, § 1; Laws 2003, LB 726, § 3; Laws 2011, LB277, § 1; R.S.Supp.,2011, § 81-1255; Laws 2012, LB1053, § 17; Laws 2014, LB215, § 1; Laws 2023, LB775, § 15. Effective date September 2, 2023.

81-3720 County Visitors Improvement Fund; use; visitor attraction, defined.

(1)(a) The County Visitors Improvement Fund shall be administered by the governing body of the county with the advice of the visitors committee created pursuant to section 81-3717. The fund shall be used to make grants for expanding and improving facilities at any existing visitor attraction, acquiring or expanding exhibits for existing visitor attractions, constructing visitor attractions, or planning or developing such expansions, improvements, or construction.

(b) Grants shall be available for any visitor attraction in the county owned by the public or any nonprofit organization, the primary purpose of which is to operate the visitor attraction.

(c) Grants may be made for a specified annual amount not to exceed the proceeds derived from a sales tax rate of one percent imposed by a county for a County Visitors Improvement Fund for a term of years not to exceed twenty years and may be pledged by the recipient to secure bonds issued to finance

expansion, improvement, or construction of a visitor attraction. Any grant made for a term of years shall be funded each year in accordance with any agreement contained in the grant contract.

(d) No bonds issued by a grant recipient which pledges grant funds shall constitute a debt, liability, or general obligation of the county levying the tax or a pledge of the faith and credit of the county levying the tax but shall be payable solely from grant funds. Each bond issued by any grant recipient which pledges grant funds shall contain on the face thereof a statement that neither the faith and credit nor the taxing power of the county levying the tax is pledged to the payment of the principal of or the interest on such bond.

(2) For purposes of this section and section 81-3717, visitor attraction means a defined location open to the public, which location is of educational, cultural, historical, artistic, or recreational significance or provides entertainment or in which are exhibits, displays, or performances of educational, cultural, historic, artistic, or entertainment value.

Source: Laws 1980, LB 499, § 14; Laws 1988, LB 797, § 6; Laws 1989, LB 262, § 5; Laws 2005, LB 557, § 1; R.S.1943, (2008), § 81-1258; Laws 2012, LB1053, § 20; Laws 2023, LB775, § 16. Effective date September 2, 2023.

CHAPTER 82

STATE CULTURE AND HISTORY

Article.

3. Nebraska Arts Council. 82-334, 82-335.

ARTICLE 3

NEBRASKA ARTS COUNCIL

Section

82-334. Support the Arts Cash Fund; created; use; investment.

82-335. Competitive grant program; eligibility for grant; priority; purpose; amount.

82-334 Support the Arts Cash Fund; created; use; investment.

(1) The Support the Arts Cash Fund is created. The fund shall consist of all money credited to the fund pursuant to section 60-3,252 and all money transferred to the fund pursuant to section 13-3108.

(2) The Nebraska Arts Council shall administer and distribute the Support the Arts Cash Fund. The fund shall be expended by the Nebraska Arts Council (a) to provide aid to communities that designate a focus area of the city or village for arts and cultural development, (b) to provide money for a competitive grant program that awards a grant to any creative district that meets the criteria for the competitive grant, if such program exists, (c) to provide money for the competitive grant program for cities of the first class, cities of the second class, and villages described in section 82-335, and (d) to defray costs directly related to the administration of the fund.

(3) All money transferred to the fund pursuant to section 13-3108 shall be used for the competitive grant program for cities of the first class, cities of the second class, and villages described in section 82-335.

(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.

Source: Laws 2020, LB944, § 90; Laws 2021, LB39, § 9; Laws 2023, LB727, § 104.

Operative date June 7, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

82-335 Competitive grant program; eligibility for grant; priority; purpose; amount.

(1) The Nebraska Arts Council shall establish a competitive grant program to award grants to cities of the first class, cities of the second class, and villages as provided in this section. The grants shall be awarded from funds transferred to the Support the Arts Cash Fund pursuant to subdivision (9)(a) of section 13-3108.

(2) A city of the first class, city of the second class, or village is eligible for a grant under this section if:

(a) The city or village has a creative district within its boundaries that has a ten-year plan for integration of the arts intended to catalyze economic and workforce development initiatives in such city or village; and

(b) The city or village is not receiving state assistance under the Sports Arena Facility Financing Assistance Act.

(3) Priority in grant funding shall go to any city of the first class, city of the second class, or village described in subsection (2) of this section whose project includes the partnership of a city or village convention and visitors bureau or county convention and visitors bureau.

(4) Grants under this section may fund capital assets, video projection mapping, and intangible video or audio artistic expression presentations. Grants shall not fund ongoing operational and personnel expenses of a political subdivision or nonprofit corporation, live performances, promotional or marketing efforts of the creative district, legal expenses, lobbying expenses, planning expenses, architectural expenses, or engineering expenses.

(5) Any assets acquired using grant funds shall be owned by the city of the first class, city of the second class, or village receiving such grant.

(6) Any grant awarded under this section shall be in an amount determined by the Nebraska Arts Council, which shall not be less than one hundred thousand dollars.

(7) For purposes of this section, creative district means a creative district established pursuant to subdivision (5) of section 82-312.

Source: Laws 2021, LB39, § 10; Laws 2023, LB727, § 105.
Operative date June 7, 2023.

Cross References

Sports Arena Facility Financing Assistance Act, see section 13-3101.

CHAPTER 83

STATE INSTITUTIONS

Article.

1. Management.
 - (a) General Provisions. 83-109.
 - (f) Correctional Services, Parole, and Pardons. 83-173 to 83-1,135.02.
4. Penal and Correctional Institutions.
 - (h) Disciplinary Procedures in Adult Institutions. 83-4,114.
9. Department of Correctional Services.
 - (a) General Provisions. 83-918, 83-919.

ARTICLE 1

MANAGEMENT

(a) GENERAL PROVISIONS

Section	
83-109.	Patients and residents; admission to state institutions; records; to whom accessible; transfers; investigations; appeals.
	(f) CORRECTIONAL SERVICES, PAROLE, AND PARDONS
83-173.	Director of Correctional Services; duties.
83-173.02.	Repealed. Laws 2023, LB157, § 22.
83-1,100.02.	Person on parole; levels of supervision; Division of Parole Supervision; duties.
83-1,110.	Committed offender; eligible for release on parole; when.
83-1,110.05.	Geriatric parole; eligibility; conditions; term.
83-1,111.	Committed offender; eligible for parole; streamlined parole contract, when; release on parole; review procedures; release date set; case deferred; reconsideration.
83-1,111.01.	Qualified offender; streamlined parole contract; effect on release.
83-1,114.	Board; deferment of parole; grounds.
83-1,122.01.	Board of Parole; jurisdiction.
83-1,122.02.	Technical parole violation residential housing program; pilot program; participants; placement; requirements; report.
83-1,125.01.	Person under jurisdiction of Board of Parole; file; contents; confidential; access by Public Counsel; information accessible through criminal justice information system.
83-1,127.	Board of Pardons; duties.
83-1,135.	Act, how cited.
83-1,135.02.	Changes under Laws 2003, LB 46; changes under Laws 2015, LB605; changes under Laws 2016, LB1094; changes under Laws 2018, LB841; changes under Laws 2023, LB50; applicability; legislative intent.

(a) GENERAL PROVISIONS

83-109 Patients and residents; admission to state institutions; records; to whom accessible; transfers; investigations; appeals.

(1) The Department of Health and Human Services shall have general control over the admission of patients and residents to all institutions over which it has jurisdiction. Each individual shall be assigned to the institution best adapted to care for him or her.

(2) A record of every patient or resident of every institution shall be kept complete from the date of his or her entrance to the date of his or her discharge

or death. Such records shall be accessible only (a) to the department, a legislative committee, the Governor, any federal agency requiring medical records to adjudicate claims for federal benefits, and any public or private agency under contract to provide facilities, programs, and patient services, (b) upon order of a judge, court, or mental health board, (c) in accordance with sections 20-161 to 20-166, (d) to the Nebraska State Patrol pursuant to section 69-2409.01, (e) to those portions of the record required to be released to a victim as defined in section 29-119 in order to comply with the victim notification requirements pursuant to subsections (5) and (6) of section 81-1850, (f) to law enforcement and county attorneys when a crime occurs on the premises of an institution, (g) upon request when a patient or resident has been deceased for fifty years or more, (h) to current treatment providers, or (i) to treatment providers for coordination of care related to transfer or discharge. In addition, a patient or resident or his or her legally authorized representative may authorize the specific release of his or her records, or portions thereof, by filing with the department a signed written consent.

(3) Transfers of patients or residents from one institution to another shall be within the exclusive jurisdiction of the department and shall be recorded in the office of the department, with the reasons for such transfers.

(4) When the department is unable to assign a patient to a regional center or commit him or her to any other institution at the time of application, a record thereof shall be kept and the patient accepted at the earliest practicable date.

(5) The superintendents of the regional centers and Beatrice State Developmental Center shall notify the department immediately whenever there is any question regarding the propriety of the commitment, detention, transfer, or placement of any person admitted to a state institution. The department shall then investigate the matter and take such action as shall be proper. Any interested party who is not satisfied with such action may appeal such action, and the appeal shall be in accordance with the Administrative Procedure Act.

(6) The department shall have full authority on its own suggestion or upon the application of any interested person to investigate the physical and mental status of any patient or resident of any regional center or the Beatrice State Developmental Center. If upon such investigation the department considers such patient or resident fit to be released from the regional center or Beatrice State Developmental Center, it shall cause such patient or resident to be discharged or released on convalescent leave.

Source: Laws 1913, c. 179, § 27, p. 546; R.S.1913, § 7205; C.S.1922, § 6856; C.S.1929, § 83-127; R.S.1943, § 83-109; Laws 1961, c. 416, § 15, p. 1270; Laws 1963, c. 525, § 1, p. 1645; Laws 1971, LB 419, § 1; Laws 1975, LB 206, § 1; Laws 1979, LB 322, § 61; Laws 1981, LB 545, § 39; Laws 1985, LB 315, § 1; Laws 1988, LB 697, § 7; Laws 1988, LB 352, § 182; Laws 1996, LB 1044, § 899; Laws 1996, LB 1055, § 16; Laws 1997, LB 325, § 2; Laws 2016, LB816, § 2; Laws 2021, LB296, § 1; Laws 2023, LB50, § 44.

Effective date September 2, 2023.

Cross References

Administrative Procedure Act, see section 84-920.

Burial of dead from state institutions, portion of Wyuka Cemetery reserved for, see section 12-102.

(f) CORRECTIONAL SERVICES, PAROLE, AND PARDONS

83-173 Director of Correctional Services; duties.

The Director of Correctional Services shall:

- (1) Supervise and be responsible for the administration of the Department of Correctional Services;
- (2) Establish, consolidate, or abolish any administrative subdivision within the department and appoint and remove for cause the heads thereof and delegate appropriate powers and duties to them;
- (3) Establish and administer policies and programs for the operation of the facilities in the department and for the custody, control, safety, correction, and rehabilitation of persons committed to the department;
- (4) Appoint and remove the chief executive officer of each facility and delegate appropriate powers and duties to him or her;
- (5) Appoint and remove employees of the department and delegate appropriate powers and duties to them;
- (6) Adopt and promulgate rules and regulations for the management, correctional treatment, and rehabilitation of persons committed to the department, the administration of facilities, and the conduct of officers and employees under his or her jurisdiction;
- (7) Designate the place of confinement of persons committed to the department subject to section 83-176;
- (8) Establish and administer policies that ensure that complete and up-to-date electronic records are maintained for each person committed to the department and which also ensure privacy protections. Electronic records shall include programming recommendations, program completions, time spent in housing other than general population, and medical records, including mental and behavioral health records;
- (9) Collect, develop, and maintain statistical information concerning persons committed to the department, sentencing practices, and correctional treatment as may be useful in penological research or in the development of treatment programs;
- (10) Provide training programs designed to equip employees for duty in the facilities and related services of the department and to raise and maintain the educational standards, level of performance, and safety of such employees;
- (11) Notify law enforcement agencies of upcoming furloughs as required by section 83-173.01;
- (12) Issue or authorize the issuance of a warrant for the arrest of any person committed to the department who has escaped from the custody of the department; and
- (13) Exercise all powers and perform all duties necessary and proper in carrying out his or her responsibilities.

Source: Laws 1969, c. 817, § 4, p. 3074; Laws 1973, LB 563, § 41; Laws 1979, LB 322, § 64; Laws 1980, LB 794, § 3; Laws 1981, LB 545, § 42; Laws 1986, LB 481, § 1; Laws 2015, LB598, § 24; Laws 2023, LB50, § 45.

Effective date September 2, 2023.

83-173.02 Repealed. Laws 2023, LB157, § 22.

Operative date September 2, 2023.

83-1,100.02 Person on parole; levels of supervision; Division of Parole Supervision; duties.

(1) For purposes of this section:

(a) Levels of supervision means the determination of the following for each person on parole:

(i) Supervision contact requirements, including the frequency, location, methods, and nature of contact with the parole officer;

(ii) Substance abuse testing requirements and frequency;

(iii) Contact restrictions;

(iv) Curfew restrictions;

(v) Access to available programs and treatment, with priority given to moderate-risk and high-risk parolees; and

(vi) Severity of graduated responses to violations of supervision conditions;

(b) Responsivity factors means characteristics of a parolee that affect the parolee's ability to respond favorably or unfavorably to any treatment goals; and

(c) Risk and needs assessment means an actuarial tool that has been validated in Nebraska to determine the likelihood of the parolee engaging in future criminal behavior.

(2) The Division of Parole Supervision shall establish an evidence-based process that utilizes a risk and needs assessment to measure criminal risk factors, specific individual needs, and responsivity factors.

(3) The risk and needs assessment shall be performed at the commencement of the parole term and every six months thereafter by division staff trained and certified in the use of the risk and needs assessment.

(4) The validity of the risk and needs assessment shall be tested at least every five years.

(5) Based on the results of the risk and needs assessment, the division shall target parolee criminal risk and need factors by focusing sanction, program, and treatment resources on moderate-risk and high-risk parolees.

(6) The division shall provide training to its parole officers on (a) use of a risk and needs assessment, (b) risk-based supervision strategies, (c) relationship skills, (d) cognitive behavioral interventions, (e) community-based resources, (f) criminal risk factors, (g) targeting criminal risk factors to reduce recidivism, (h) proper use of a matrix of administrative sanctions, custodial sanctions, and rewards developed pursuant to section 83-1,119, and (i) addressing responsivity factors. Each parole officer shall complete the training requirements set forth in this subsection within one year after his or her hire date or September 1, 2024, whichever is later.

(7) The division shall provide training for chief parole officers to become trainers so as to ensure long-term and self-sufficient training capacity in the state.

Source: Laws 2015, LB605, § 99; Laws 2016, LB1094, § 35; Laws 2018, LB841, § 26; Laws 2023, LB50, § 46.
Effective date September 2, 2023.

83-1,110 Committed offender; eligible for release on parole; when.

(1) Every committed offender shall be eligible for parole upon the earliest of the following:

(a) When the offender has served one-half the minimum term of his or her sentence as provided in sections 83-1,107 and 83-1,108;

(b) For a committed offender serving a maximum term of twenty years or less, two years prior to the offender's mandatory discharge date; or

(c) For a committed offender serving a maximum term of more than twenty years, when the offender has served eighty percent of the time until the offender's mandatory discharge date.

(2) The board shall conduct a parole review not later than sixty days prior to the date a committed offender becomes eligible for parole as provided in this subsection, except that if a committed offender is eligible for parole upon his or her commitment to the department, a parole review shall occur as early as is practical. No such reduction of sentence shall be applied to any sentence imposing a mandatory minimum term.

(3)(a) This subsection applies to any committed offender sentenced to consecutive terms, whether received at the same time or at any time during the original sentence.

(b) The maximum terms shall be added to compute the new maximum term which, less good time, shall determine the date when discharge from the custody of the state becomes mandatory.

(c) The committed offender shall be eligible for release on parole upon the earliest of the following:

(i) When the offender has served the total of one-half the minimum term as provided in sections 83-1,107 and 83-1,108;

(ii) For a committed offender serving a maximum term of twenty years or less, two years prior to the offender's mandatory discharge date; or

(iii) For a committed offender serving a maximum term of more than twenty years, when the offender has served eighty percent of the time until the offender's mandatory discharge date.

Source: Laws 1969, c. 817, § 41, p. 3093; Laws 1972, LB 1499, § 9; Laws 1975, LB 567, § 6; Laws 1992, LB 858, § 5; Laws 1992, LB 816, § 5; Laws 1995, LB 371, § 21; Laws 2003, LB 46, § 23; Laws 2023, LB50, § 47.

Effective date September 2, 2023.

83-1,110.05 Geriatric parole; eligibility; conditions; term.

(1) A committed offender may be eligible for geriatric parole if the committed offender:

(a) Is not serving a sentence for a Class I, IA, or IB felony; is not serving a sentence for an offense that includes as an element sexual contact or sexual penetration; and is not otherwise serving a sentence of life imprisonment;

(b) Is seventy-five years of age or older; and

(c) Has served at least fifteen years of the sentence for which currently incarcerated.

(2) A committed offender may be eligible for geriatric parole in addition to any other parole. The department shall identify committed offenders who may be eligible for geriatric parole.

(3) The board shall decide to grant geriatric parole only after a review of the decision guidelines as set forth in the board's rules and regulations and the factors set forth in section 83-1,114.

(4) The parole term of a geriatric parolee shall be for the remainder of the parolee's sentence as reduced by any adjustment for good conduct pursuant to the Nebraska Treatment and Corrections Act.

(5) The board shall require as a condition of geriatric parole that the parolee wear or use an electronic monitoring device for a period of at least eighteen months. For purposes of this subsection, electronic monitoring device means a device worn by or affixed to a person which is used to track the physical location of such person.

Source: Laws 2023, LB50, § 48.

Effective date September 2, 2023.

83-1,111 Committed offender; eligible for parole; streamlined parole contract, when; release on parole; review procedures; release date set; case deferred; reconsideration.

(1)(a) A committed offender serving an indeterminate sentence under which he or she may become eligible for parole shall be interviewed and have his or her record reviewed by two or more members of the board or a person designated by the board within sixty days before the expiration of his or her minimum term less any reductions as provided in section 83-1,110.

(b) If the committed offender is a qualified offender as defined in section 83-1,111.01, the committed offender shall enter into a streamlined parole contract as provided in such section.

(2) If the committed offender is a qualified offender, the review shall be limited to verifying that the committed offender is a qualified offender and whether the committed offender has already fulfilled the streamlined parole contract. If the committed offender has not yet fulfilled the streamlined parole contract, a subsequent review shall be set for the date the committed offender will fulfill the streamlined parole contract, assuming the committed offender will meet the requirements of subsection (3) of section 83-1,111.01.

(3)(a) This subsection applies if the committed offender is not a qualified offender or has been found at a review under subsection (2) of this section to have not fulfilled the terms of the streamlined parole contract. If, in the opinion of the reviewers, the review indicates the offender is reasonably likely to be granted parole and has a potential parole term of no less than one month, the board shall schedule a public hearing before a majority of its members. At such hearing the offender may present evidence, call witnesses, and be represented by counsel. If, in the opinion of the reviewers, the review indicates the offender should be denied parole, the offender may request an additional review by a majority of the members of the board. A review by the majority of the members of the board may be conducted not more than once annually. Any hearing and review shall be conducted in an informal manner, but a complete record of the proceedings shall be made and preserved.

(b) The board shall render its decision regarding the committed offender's release on parole within a reasonable time after the hearing or review. The decision shall be by majority vote of the board. The decision shall be based on the entire record before the board which shall include the opinion of the person who conducted the review. If the board denies parole, written notification listing the reasons for such denial and the recommendations for correcting deficiencies which cause the denial shall be given to the committed offender within thirty days following the hearing.

(c) If the board fixes the release date, such date shall be not more than six months from the date of the committed offender's parole hearing or from the date of last reconsideration of his or her case, unless there are special reasons for fixing a later release date.

(d) If the board defers the case for later reconsideration, the committed offender shall be afforded a parole review at least once a year until a release date is fixed. The board may order a reconsideration or a rehearing of the case at any time.

(4) The release of a committed offender on parole shall not be upon the application of the offender but by the initiative of the board. No application for release on parole made by a committed offender or on his or her behalf shall be entertained by the board. This subsection does not prohibit the Director of Correctional Services from recommending to the board that it consider an individual offender for release on parole.

Source: Laws 1969, c. 817, § 42, p. 3093; Laws 1972, LB 1499, § 10; Laws 1973, LB 524, § 4; Laws 1975, LB 567, § 7; Laws 1986, LB 1242, § 1; Laws 2003, LB 46, § 24; Laws 2018, LB841, § 40; Laws 2023, LB50, § 49.
Effective date September 2, 2023.

83-1,111.01 Qualified offender; streamlined parole contract; effect on release.

(1) A qualified offender serving a sentence imposed prior to September 2, 2023, who has not yet received a review from the board shall, at the review, enter into a streamlined parole contract under this section.

(2) A qualified offender serving a sentence imposed on or after September 2, 2023, shall, at the qualified offender's first review from the board, enter into a streamlined parole contract under this section.

(3) Under a streamlined parole contract, a qualified offender shall be released on parole on the qualified offender's parole eligibility date, without a hearing before the board, if:

(a) In the twenty-four-month period prior to the eligibility date, the qualified offender has not committed a Class I offense under the department's disciplinary code; and

(b) The qualified offender has completed all diagnostic evaluations provided by the department and any programming or treatment required by the department for substance abuse, sex offenses, and violence reduction.

(4) If a qualified offender does not meet the requirements of subsection (3) of this section, the board shall consider the offender's parole eligibility as provided for nonqualified offenders under section 83-1,111.

(5) For purposes of this section:

(a) Qualified offender means a committed offender who is serving an indeterminate sentence under which the committed offender may become eligible for parole and who is not serving a sentence for a violent felony;

(b) Serious bodily injury has the same meaning as in section 28-109;

(c) Sexual contact and sexual penetration have the same meanings as in section 28-318; and

(d) Violent felony means an offense which is a Class IIIA felony or higher which:

(i) Includes, as an element of the offense:

(A) Sexual contact or sexual penetration;

(B) The threat to inflict serious bodily injury or death on another person, the infliction of serious bodily injury on another person, or causing the death of another person; or

(C) The use of physical force against another person; or

(ii) Consists of attempt, conspiracy, being an accessory to, or aiding and abetting a felony with any of the offenses described in subdivision (5)(d)(i) of this section as the underlying offense.

Source: Laws 2023, LB50, § 50.

Effective date September 2, 2023.

83-1,114 Board; deferment of parole; grounds.

(1) Whenever the board considers the release of a committed offender who is eligible for release on parole, it shall order his or her release unless it is of the opinion that his or her release should be deferred because:

(a) There is a substantial risk that he or she will not conform to the conditions of parole;

(b) His or her release would depreciate the seriousness of his or her crime or promote disrespect for law;

(c) His or her release would have a substantially adverse effect on institutional discipline; or

(d) His or her continued correctional treatment, medical care, or vocational or other training in the facility will substantially enhance his or her capacity to lead a law-abiding life when released at a later date.

(2) In making its determination regarding a committed offender's release on parole, the board shall give consideration to the decision guidelines as set forth in its rules and regulations and shall take into account each of the following factors:

(a) The adequacy of the offender's parole plan, including sufficiency of residence, employment history, and employability;

(b) The offender's prior criminal record, including the nature and circumstances, dates, and frequency of previous offenses;

(c) The offender's institutional behavior;

(d) The offender's previous experience on parole and how recent such experience is;

(e) Whether the offender has completed a risk and needs assessment completed pursuant to section 83-192; and

(f) Any testimony or written statement by a victim as provided in section 81-1848.

Source: Laws 1969, c. 817, § 45, p. 3095; Laws 2006, LB 1113, § 51; Laws 2018, LB841, § 43; Laws 2023, LB50, § 51.
Effective date September 2, 2023.

83-1,122.01 Board of Parole; jurisdiction.

(1) Except as provided in subsection (3) of this section, the board does not have jurisdiction over a person who is committed to the department in accordance with section 29-2204.02 for a Class III, IIIA, or IV felony committed on or after August 30, 2015, unless the person is also committed to the department in accordance with section 29-2204 for (a) a sentence of imprisonment for a Class III, IIIA, or IV felony committed prior to August 30, 2015, or (b) a sentence of imprisonment for a Class I, IA, IB, IC, ID, II, or IIA felony.

(2) Except as provided in subsection (3) of this section, the board does not have jurisdiction over a person committed to the department for a misdemeanor sentence imposed consecutively or concurrently with a Class III, IIIA, or IV felony sentence for an offense committed on or after August 30, 2015, unless the person is also committed to the department in accordance with section 29-2204 for (a) a sentence of imprisonment for a Class III, IIIA, or IV felony committed prior to August 30, 2015, or (b) a sentence of imprisonment for a Class I, IA, IB, IC, ID, II, or IIA felony.

(3) This section does not apply to medical parole under section 83-1,110.02 or geriatric parole under section 83-1,110.05.

Source: Laws 2015, LB605, § 104; Laws 2016, LB1094, § 40; Laws 2018, LB841, § 48; Laws 2023, LB50, § 52.
Effective date September 2, 2023.

83-1,122.02 Technical parole violation residential housing program; pilot program; participants; placement; requirements; report.

(1) The Division of Parole Supervision and the department shall create a pilot program to establish a technical parole violation residential housing program. The purpose of the program is to provide accountability and intensive support for individuals on parole who commit technical violations, without revoking them fully back to prison.

(2) The program shall provide a structured environment for selected individuals on parole who have committed technical violations. The program shall be based upon a therapeutic community model. Participants in the program shall, at a minimum, be required to take part in counseling, educational, and other programs as the department deems appropriate, to provide community service, and to submit to drug and alcohol screening.

(3) An individual on parole shall not be placed in the pilot program until the Division of Parole Supervision has determined the individual is a suitable candidate in accordance with policies and guidelines developed by the division.

(4) On or before June 1, 2024, the Division of Parole Supervision shall electronically submit a report to the Judiciary Committee of the Legislature regarding the pilot program. The report shall evaluate effects of the pilot program on recidivism and make recommendations regarding expansion of or changes to the program.

(5) For purposes of this section, technical violation has the same meaning as in section 83-1,119.

Source: Laws 2023, LB50, § 55.

Effective date September 2, 2023.

83-1,125.01 Person under jurisdiction of Board of Parole; file; contents; confidential; access by Public Counsel; information accessible through criminal justice information system.

(1) The Board of Parole and the Division of Parole Supervision may maintain an individual file for each person who is under the jurisdiction of the Board of Parole. Such file may be maintained electronically and shall include, when available and appropriate, the following information on such person:

- (a) Admission summary;
- (b) Presentence investigation report;
- (c) Classification reports and recommendations;
- (d) Official records of conviction and commitment along with any earlier criminal records;
- (e) Progress reports and admission-orientation reports;
- (f) Reports of any disciplinary infractions and their disposition;
- (g) Risk and needs assessments;
- (h) Parole plan and parole placement and investigation worksheets;
- (i) Decision guideline scores;
- (j) Parole case plan;
- (k) Parole progress reports and contact notes;
- (l) Arrest and violation reports, including disposition;
- (m) Parole proceedings orders and notices;
- (n) Other documents related to parole supervision;
- (o) Correspondence; and
- (p) Other pertinent data concerning his or her background, conduct, associations, and family relationships.

(2) Any decision concerning release on or revocation of parole or imposition of sanctions shall be made only after the individual file has been reviewed. The contents of the individual file shall be confidential unless disclosed in connection with a public hearing and shall not be subject to public inspection except by court order for good cause shown. The contents of the file shall not be accessible to any person under the jurisdiction of the Board of Parole. A person under the jurisdiction of the board may obtain access to his or her medical records by request to the provider pursuant to sections 71-8401 to 71-8407 notwithstanding the fact that such medical records may be a part of his or her parole file. The board and the Division of Parole Supervision have the authority to withhold decision guideline scores, risk and needs assessment scores, and mental health and psychological records of a person under the jurisdiction of the board when appropriate.

(3) Nothing in this section limits in any manner the authority of the Public Counsel to inspect and examine the records and documents of the board and the Division of Parole Supervision pursuant to sections 81-8,240 to 81-8,254,

except that the Public Counsel's access to the medical or mental health records of a person under the jurisdiction of the board shall be subject to his or her consent. The office of Public Counsel shall not disclose the medical or mental health records of a person under the jurisdiction of the board to anyone else, including any other person under the jurisdiction of the board, except as authorized by law.

(4) For any person under the jurisdiction of the Board of Parole, the board shall provide such person's (a) name, (b) parole officer, and (c) conditions of parole to the Nebraska Commission on Law Enforcement and Criminal Justice which shall provide access to such information to law enforcement agencies through the state's criminal justice information system.

Source: Laws 2018, LB841, § 50; Laws 2023, LB50, § 53.
Effective date September 2, 2023.

83-1,127 Board of Pardons; duties.

The Board of Pardons shall:

- (1) Exercise the pardon authority as defined in section 83-170 for all criminal offenses except treason and cases of impeachment;
- (2) Adopt and promulgate rules and regulations for its own administration and operation;
- (3) Appoint and remove its employees as prescribed by the State Personnel System and delegate appropriate powers and duties to them;
- (4) Consult with the Board of Parole concerning applications for the exercise of pardon authority;
- (5) Consult with the Department of Motor Vehicles concerning applications received from the department pursuant to section 60-6,209 for the exercise of pardon authority; and
- (6) Exercise all powers and perform all duties necessary and proper in carrying out its responsibilities under the provisions of the Nebraska Treatment and Corrections Act.

Source: Laws 1969, c. 817, § 58, p. 3102; Laws 1979, LB 322, § 66; Laws 1981, LB 545, § 44; Laws 1992, Third Spec. Sess., LB 13, § 6; Laws 1994, LB 677, § 13; Laws 1998, LB 309, § 25; Laws 2023, LB50, § 54.
Effective date September 2, 2023.

Cross References

State Personnel System, see section 81-1301 et seq.

83-1,135 Act, how cited.

Sections 83-170 to 83-1,135.05 shall be known and may be cited as the Nebraska Treatment and Corrections Act.

Source: Laws 1969, c. 817, § 85, p. 3112; Laws 1992, Third Spec. Sess., LB 13, § 9; Laws 1995, LB 371, § 25; Laws 1997, LB 274, § 2; Laws 1997, LB 364, § 21; Laws 1998, LB 309, § 28; Laws 2003, LB 46, § 28; Laws 2005, LB 538, § 24; Laws 2006, LB 1199, § 99; Laws 2011, LB675, § 11; Laws 2013, LB44, § 4; Laws 2015, LB598, § 32; Laws 2015, LB605, § 105; Laws 2016,

LB867, § 2; Laws 2016, LB1094, § 41; Laws 2018, LB841, § 51;
 Laws 2023, LB50, § 56.
 Effective date September 2, 2023.

83-1,135.02 Changes under Laws 2003, LB 46; changes under Laws 2015, LB605; changes under Laws 2016, LB1094; changes under Laws 2018, LB841; changes under Laws 2023, LB50; applicability; legislative intent.

(1) It is the intent of the Legislature that the changes made to the Nebraska Treatment and Corrections Act by Laws 2003, LB 46, with respect to parole eligibility apply to all committed offenders under sentence and not on parole on May 24, 2003, and to all persons sentenced on and after such date.

(2) It is the intent of the Legislature that the changes made to sections 29-2262, 29-2266, 29-2281, 83-182.01, 83-183, 83-183.01, 83-184, 83-1,119, and 83-1,122 by Laws 2015, LB605, and sections 83-184.01, 83-1,100.02, and 83-1,100.03 apply to all committed offenders under sentence, on parole, or on probation on August 30, 2015, and to all persons sentenced on and after such date.

(3) It is the intent of the Legislature that the changes made to sections 28-105, 29-2204.02, 29-2260, 29-2262, 29-2263, 29-2266, 29-2267, 29-2268, 47-401, 47-502, 83-187, 83-1,119, 83-1,122, and 83-1,122.01 by Laws 2016, LB1094, and sections 29-2266.01 to 29-2266.03 and 83-1,135.03 apply to all committed offenders under sentence, on parole, or on probation on or after April 20, 2016, and to all persons sentenced on and after such date.

(4) It is the intent of the Legislature that the changes made to sections 83-1,110.02 and 83-1,122.01 by Laws 2018, LB841, apply to all committed offenders under sentence or on parole on or after July 19, 2018, and to all persons sentenced on and after such date.

(5) Except as otherwise provided in section 83-1,111.01, it is the intent of the Legislature that the changes made to sections 83-1,100.02, 83-1,110, 83-1,110.05, 83-1,111, 83-1,111.01, 83-1,114, and 83-1,122.02 by Laws 2023, LB50, apply to all committed offenders under sentence or on parole on or after September 2, 2023, and to all persons sentenced on and after such date.

Source: Laws 2003, LB 46, § 50; Laws 2015, LB605, § 106; Laws 2016, LB1094, § 42; Laws 2018, LB841, § 52; Laws 2023, LB50, § 57.
 Effective date September 2, 2023.

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.

(h) DISCIPLINARY PROCEDURES IN ADULT INSTITUTIONS

83-4,114 Disciplinary restrictions and punishment; degree; solitary confinement prohibited; annual report; contents.

(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. 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;

(g) The mean and median length of time for all inmates held in restrictive housing; and

(h) A description of all inmate housing areas that hold inmates in a setting that is neither general population nor restrictive housing, including the purpose of each setting, data on how many inmates were held in such settings, the average length of stay in such settings, information on programs provided in each setting, data on program completions in each setting, staffing levels and types of staff in each setting, and any other information or data relevant to the operation of such settings. For the purposes of this subdivision, general population means an inmate housing area that allows out-of-cell movement without the use of restraints, a minimum of six hours per day of out-of-cell time, regular access to programming areas outside the living unit, and access to services available to the broader population.

Source: Laws 1976, LB 275, § 6; Laws 2015, LB598, § 33; Laws 2016, LB1094, § 43; Laws 2019, LB686, § 14; Laws 2023, LB157, § 16.

Operative date September 2, 2023.

ARTICLE 9

DEPARTMENT OF CORRECTIONAL SERVICES

(a) GENERAL PROVISIONS

Section

83-918. Strategic plan; contents; report; appear at hearing.

83-919. Correctional officer; protective vest; required.

(a) GENERAL PROVISIONS

83-918 Strategic plan; contents; report; appear at hearing.

(1) For each biennium, the Department of Correctional Services shall, as part of the appropriations request process pursuant to subsection (1) of section 81-132, include a strategic plan that identifies the main purpose or purposes of each program, verifiable and auditable key goals that the department believes are fair measures of its progress in meeting each program's main purpose or purposes, and benchmarks for improving performance on the key goals. The department shall also report whether the benchmarks are being met and, if not, the expected timeframes for meeting them.

(2) On or before September 15 of each year, the Department of Correctional Services shall report electronically to the Judiciary Committee of the Legislature and the Appropriations Committee of the Legislature on the progress towards the key goals identified pursuant to this section that occurred in the previous twelve months. Upon request, the department shall appear at a joint hearing of the Judiciary Committee and Appropriations Committee and present the report.

Source: Laws 2015, LB33, § 3; Laws 2016, LB1092, § 11; Laws 2023, LB157, § 17.

Operative date September 2, 2023.

83-919 Correctional officer; protective vest; required.

The Department of Correctional Services shall provide each correctional officer, as part of the standard uniform, with a protective vest designed to protect against edged weapons and stabbings. Each such vest shall be fitted to the officer.

Source: Laws 2023, LB50, § 58.

Effective date September 2, 2023.

CHAPTER 84

STATE OFFICERS

Article.

- 3. Auditor of Public Accounts. 84-304.
- 6. State Treasurer. 84-612.
- 13. State Employees Retirement Act. 84-1301, 84-1325.

ARTICLE 3

AUDITOR OF PUBLIC ACCOUNTS

Section

- 84-304. Auditor; powers and duties; assistant deputies; qualifications; powers and duties.

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 for audit periods ending before June 30, 2020, or 2018 Revision for audit periods ending on or after June 30, 2020), published by the Comptroller General of the United States, Government Accountability Office, and except as provided in subdivision (11) 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 (2018 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, 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 website 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 conduct-

ed 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)(a) To examine or cause to be examined the books, accounts, vouchers, and records related to any money transferred pursuant to subsection (2) or (4) of section 79-3501, any fund receiving any such transfer, or any subsequent transfer or expenditure of such money when the Auditor of Public Accounts determines such examination necessary or when requested by (i) any department or agency receiving any such transfer or acting as the administrator for a fund receiving any such transfer, (ii) any recipient or subsequent recipient of money disbursed from any such fund, or (iii) any service contractor responsible for managing, on behalf of any entity, any portion of any such fund or any money disbursed from any such fund.

(b) Any examination pursuant to subdivision (9)(a) of this section shall be made at the expense of the department or agency, recipient or subsequent recipient, or service contractor whose books, accounts, vouchers, or records are being examined.

(c) For purposes of this subdivision, recipient, subsequent recipient, or service contractor means a nonprofit entity that expends funds transferred pursuant to subsection (2) or (4) of section 79-3501 to carry out a state program or function, but does not include an individual who is a direct beneficiary of such a program or function.

(d) The Auditor of Public Accounts shall prescribe the form for the annual reports required in subsection (6) of section 79-3501. Such annual reports shall be published on the website of the Auditor of Public Accounts;

(10) To develop and maintain an annual budget and actual financial information reporting system for political subdivisions that is accessible online by the public;

(11) When authorized, to conduct joint audits with the Legislative Performance Audit Committee as described in section 50-1205;

(12) 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; and

(13) In consultation with statewide associations representing (a) counties and (b) cities and villages, to approve annual continuing education programs for county treasurers, city treasurers, and village treasurers as required by sections 14-553, 15-317, 16-318, 17-606, and 23-1601. The cost of attending such programs shall be at the expense of the county, city, or village. The auditor shall maintain records of program attendance and notify each county board, city council, or village board of trustees if its treasurer has not completed such program attendance. The auditor shall inform the Attorney General and the

county attorney of the county in which a treasurer is located if such treasurer has not completed a required annual continuing education program.

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; Laws 2020, LB781, § 8; Laws 2020, LB1003, § 186; Laws 2021, LB528, § 51; Laws 2023, LB705, § 107.

Operative date July 1, 2023.

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.

ARTICLE 6

STATE TREASURER

Section

84-612. Cash Reserve Fund; created; transfers; limitations; receipt of federal funds.

84-612 Cash Reserve Fund; created; transfers; limitations; 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 undesig-

nated general government purposes, federal revenue sharing, or general fiscal relief of the state.

(4) The State Treasurer shall transfer two million dollars from the Governor's Emergency Cash Fund to the Cash Reserve Fund on or before June 30, 2024, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(5) The State Treasurer shall transfer two hundred sixteen million one hundred twenty thousand dollars from the Cash Reserve Fund to the Nebraska Capital Construction Fund on or after July 1, 2022, but before June 15, 2023, 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 one hundred eighty-two million six hundred twenty-three thousand eight hundred twenty-five dollars from the Cash Reserve Fund to the Nebraska Capital Construction Fund on or after July 1, 2023, but before June 30, 2024, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(7) The State Treasurer shall transfer fifty-three million five hundred thousand dollars from the Cash Reserve Fund to the Perkins County Canal Project Fund on or before June 30, 2023, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(8) No funds shall be transferred from the Cash Reserve Fund to fulfill the obligations created under the Nebraska Property Tax Incentive Act unless the balance in the Cash Reserve Fund after such transfer will be at least equal to five hundred million dollars.

(9) The State Treasurer shall transfer thirty million dollars from the Cash Reserve Fund to the Military Base Development and Support Fund on or before June 30, 2023, but not before July 1, 2022, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(10) The State Treasurer shall transfer eight million three hundred thousand dollars from the Cash Reserve Fund to the Trail Development and Maintenance Fund on or after July 1, 2022, but before July 30, 2022, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(11) The State Treasurer shall transfer fifty million dollars from the Cash Reserve Fund to the Nebraska Rural Projects Fund on or after July 1, 2022, but before July 15, 2023, 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 thirty million dollars from the Cash Reserve Fund to the Rural Workforce Housing Investment Fund on or after July 1, 2022, but before July 15, 2023, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(13) The State Treasurer shall transfer twenty million dollars from the Cash Reserve Fund to the Intern Nebraska Cash Fund on or after July 1, 2022, but before June 15, 2023, on such dates and in such amounts as directed by the

budget administrator of the budget division of the Department of Administrative Services.

(14) The State Treasurer shall transfer twenty million dollars from the Cash Reserve Fund to the Middle Income Workforce Housing Investment Fund on July 15, 2022, or as soon thereafter as administratively possible, and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(15) The State Treasurer shall transfer eighty million dollars from the Cash Reserve Fund to the Jobs and Economic Development Initiative Fund on or after July 1, 2022, but before July 15, 2023, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(16) The State Treasurer shall transfer twenty million dollars from the Cash Reserve Fund to the Site and Building Development Fund on July 15, 2022, or as soon thereafter as administratively possible, and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(17) The State Treasurer shall transfer fifty million dollars from the Cash Reserve Fund to the Surface Water Irrigation Infrastructure Fund on or after July 15, 2022, but before January 1, 2023, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(18) The State Treasurer shall transfer fifteen million dollars from the Cash Reserve Fund to the Site and Building Development Fund on or before June 30, 2022, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(19) The State Treasurer shall transfer fifty-five million dollars from the Cash Reserve Fund to the Economic Recovery Contingency Fund on or before June 30, 2022, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(20) The State Treasurer shall transfer ten million dollars from the Cash Reserve Fund to the School Safety and Security Fund as soon as administratively possible after September 2, 2023, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(21) The State Treasurer shall transfer ten million dollars from the Cash Reserve Fund to the General Fund as soon as administratively possible after June 7, 2023, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(22) The State Treasurer shall transfer one million dollars from the Cash Reserve Fund to the Revitalize Rural Nebraska Fund as soon as administratively possible after June 7, 2023, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(23) The State Treasurer shall transfer three million dollars from the Cash Reserve Fund to the Risk Loss Trust on or before June 30, 2024, on such dates

and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(24) The State Treasurer shall transfer eleven million three hundred twenty thousand dollars from the Cash Reserve Fund to the Health and Human Services Cash Fund on or after July 1, 2023, but on or before June 30, 2024, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(25) The State Treasurer shall transfer five hundred seventy-four million five hundred thousand dollars from the Cash Reserve Fund to the Perkins County Canal Project Fund on or before June 30, 2024, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(26) The State Treasurer shall transfer one million four hundred thousand dollars from the Cash Reserve Fund to the State Building Revolving Fund on or before July 10, 2023, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(27) The State Treasurer shall transfer one million one hundred thousand dollars from the Cash Reserve Fund to the Accounting Division Revolving Fund on or before July 10, 2023, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(28) The State Treasurer shall transfer one million one hundred fifteen thousand dollars from the Cash Reserve Fund to the Public Safety Cash Fund on or after July 1, 2023, but before June 30, 2024, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(29) The State Treasurer shall transfer one hundred million dollars from the Cash Reserve Fund to the Roads Operations Cash Fund before June 30, 2023, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(30) The State Treasurer shall transfer eighteen million seven hundred fifty thousand dollars from the Cash Reserve Fund to the State Self-Insured Indemnification Fund before June 30, 2023, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(31) The State Treasurer shall transfer five million dollars from the Cash Reserve Fund to the Nebraska Public Safety Communication System Revolving Fund on or after July 1, 2023, but before June 30, 2024, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(32) The State Treasurer shall transfer seventy million dollars from the Cash Reserve Fund to the Shovel-Ready Capital Recovery and Investment Fund on or after July 1, 2023, but before June 30, 2024, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(33) The State Treasurer shall transfer two million dollars from the Cash Reserve Fund to the Site and Building Development Fund on or after July 1, 2023, but before June 30, 2024, on such dates and in such amounts as directed

by the budget administrator of the budget division of the Department of Administrative Services.

(34) The State Treasurer shall transfer twenty million dollars from the Cash Reserve Fund to the Economic Development Cash Fund on or after July 1, 2023, but before June 30, 2024, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(35) The State Treasurer shall transfer zero dollars from the Cash Reserve Fund to the Rural Workforce Housing Investment Fund on or after July 1, 2023, but before June 30, 2024, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(36) The State Treasurer shall transfer zero dollars from the Cash Reserve Fund to the Middle Income Workforce Housing Investment Fund on or after July 1, 2023, but before June 30, 2024, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(37) The State Treasurer shall transfer two hundred forty million dollars from the Cash Reserve Fund to the Economic Recovery Contingency Fund on or after July 1, 2023, but before June 30, 2024, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(38) The State Treasurer shall transfer ten million dollars from the Cash Reserve Fund to the Critical Infrastructure Facilities Cash Fund on or after July 1, 2023, but before June 30, 2024, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(39) The State Treasurer shall transfer four hundred forty million dollars from the General Fund to the Cash Reserve Fund on or after July 1, 2023, but before June 30, 2024, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(40) The State Treasurer shall transfer zero dollars from the Cash Reserve Fund to the Site and Building Development Fund on or after July 1, 2024, but before June 30, 2025, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(41) The State Treasurer shall transfer one million dollars from the Cash Reserve Fund to the General Fund on or after July 1, 2024, but before June 30, 2025, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(42) The State Treasurer shall transfer twenty-five million four hundred fifty-eight thousand eight hundred dollars from the Cash Reserve Fund to the Nebraska Capital Construction Fund on or after July 1, 2024, but before June 30, 2025, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(43) The State Treasurer shall transfer two million five hundred thousand dollars from the Cash Reserve Fund to the Materiel Division Revolving Fund on

or after July 1, 2023, but before June 30, 2024, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(44) The State Treasurer shall transfer ten million dollars from the Cash Reserve Fund to the Youth Outdoor Education Innovation Fund on or after July 1, 2023, but before June 30, 2024, 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 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; Laws 2020, LB1107, § 141; Laws 2020, LB1198, § 2; Laws 2021, LB385, § 1; Laws 2021, LB509, § 22; Laws 2022, LB977, § 2; Laws 2022, LB1013, § 1; Laws 2022, LB1024, § 16; Laws 2023, LB531, § 52; Laws 2023, LB705, § 108; Laws 2023, LB818, § 34.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB531, section 52, with LB705, section 108, and LB818, section 34, to reflect all amendments.

Note: Changes made by LB531 became operative June 7, 2023. Changes made by LB705 became operative September 2, 2023. Changes made by LB818 became effective May 25, 2023.

Cross References

Nebraska Property Tax Incentive Act, see section 77-6701.

ARTICLE 13

STATE EMPLOYEES RETIREMENT ACT

Section

84-1301. Terms, defined.

84-1325. Employees; military service; credit; payments; applicability.

84-1301 Terms, defined.

For purposes of the State Employees Retirement Act, unless the context otherwise requires:

(1)(a) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of an annuity payment.

(b) For an employee hired prior to January 1, 2018, the mortality assumption used for purposes of converting the member cash balance account shall be the 1994 Group Annuity Mortality Table using a unisex rate that is fifty percent male and fifty percent female. For purposes of converting the member cash balance account attributable to contributions made prior to January 1, 1984, that were transferred pursuant to the act, the 1994 Group Annuity Mortality Table for males shall be used.

(c) For an employee hired on or after January 1, 2018, or rehired on or after January 1, 2018, after termination of employment and being paid a retirement benefit or taking a refund of contributions, the mortality assumption used for purposes of converting the member cash balance account shall be a unisex mortality table 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 mortality table and actuarial factors in effect on the member's retirement date will be used to calculate the actuarial equivalency of any retirement benefit;

(2) Annuity means equal monthly payments provided by the retirement system to a member or beneficiary under forms determined by the board beginning the first day of the month after an annuity election is received in the office of the Nebraska Public Employees Retirement Systems or the first day of the month after the employee's termination of employment, whichever is later. The last payment shall be at the end of the calendar month in which the member dies or in accordance with the payment option chosen by the member;

(3) Annuity start date means the date upon which a member's annuity is first effective and shall be the first day of the month following the member's termination or following the date the application is received by the board, whichever is later;

(4) Cash balance benefit means a member's retirement benefit that is equal to an amount based on annual employee contribution credits plus interest credits and, if vested, employer contribution credits plus interest credits and dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319;

(5)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, per diems, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code 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;

(6) Date of disability means the date on which a member is determined to be disabled by the board;

(7) Defined contribution benefit means a member's retirement benefit from a money purchase plan in which member benefits equal annual contributions and earnings pursuant to section 84-1310 and, if vested, employer contributions and earnings pursuant to section 84-1311;

(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 to be of long-continued and indefinite duration;

(9) Employee means any person or officer employed by the State of Nebraska whose compensation is paid out of state funds or funds controlled or administered by a state department through any of its executive or administrative officers when acting exclusively in their respective official, executive, or administrative capacities and any employee of the State Board of Agriculture who is a member of the state retirement system on July 1, 1982. Employee does not include (a) judges as defined in section 24-701, (b) members of the Nebraska State Patrol, except for those members of the Nebraska State Patrol who elected pursuant to section 60-1304 to remain members of the State Employees Retirement System of the State of Nebraska, (c) employees of the University of Nebraska, (d) employees of the state colleges, (e) employees of community colleges, (f) employees of the Department of Labor employed prior to July 1, 1984, and paid from funds provided pursuant to Title III of the federal Social Security Act or funds from other federal sources, except that if the contributory retirement plan or contract let pursuant to section 48-609, as such section existed prior to January 1, 2018, is terminated, such employees shall become employees for purposes of the State Employees Retirement Act on the first day of the first pay period following the termination of such contributory retirement plan or contract, (g) employees of the State Board of Agriculture who are not members of the state retirement system on July 1, 1982, (h) the Nebraska National Guard air and army technicians, (i) persons who are required to participate in the School Employees Retirement System of the State of Nebraska pursuant to section 79-920, except that those persons so required and actively contributing to the State Employees Retirement System of the State of Nebraska as of March 4, 2022, shall continue as members of the State Employees Retirement System of the State of Nebraska, or (j) employees of the Coordinating Commission for Postsecondary Education who are eligible for and have elected to become members of a qualified retirement program approved by the commission which is commensurate with retirement programs at the University of Nebraska. Any individual appointed by the Governor may elect not to become a member of the State Employees Retirement System of the State of Nebraska;

(10) Employee contribution credit means an amount equal to the member contribution amount required by section 84-1308;

(11) Employer contribution credit means an amount equal to the employer contribution amount required by section 84-1309;

(12) Final account value means the value of a member's account on the date the account is either distributed to the member or used to purchase an annuity from the plan, which date shall occur as soon as administratively practicable after receipt of a valid application for benefits, but no sooner than forty-five days after the member's termination;

(13) Five-year break in service means five consecutive one-year breaks in service;

(14) Full-time employee means an employee who is employed to work one-half or more of the regularly scheduled hours during each pay period;

(15) Fund means the State Employees Retirement Fund created by section 84-1309;

(16) Guaranteed investment contract means an investment contract or account offering a return of principal invested plus interest at a specified rate. For investments made after July 19, 1996, guaranteed investment contract does not include direct obligations of the United States or its instrumentalities, bonds, participation certificates or other obligations of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association, or collateralized mortgage obligations and other derivative securities. This subdivision shall not be construed to require the liquidation of investment contracts or accounts entered into prior to July 19, 1996;

(17) Hire date or date of hire means the first day of compensated service subject to retirement contributions;

(18) Interest credit rate means the greater of (a) five percent or (b) the applicable federal mid-term rate, as published by the Internal Revenue Service as of the first day of the calendar quarter for which interest credits are credited, plus one and one-half percent, such rate to be compounded annually;

(19) Interest credits means the amounts credited to the employee cash balance account and the employer cash balance account at the end of each day. Such interest credit for each account shall be determined by applying the daily portion of the interest credit rate to the account balance at the end of the previous day. Such interest credits shall continue to be credited to the employee cash balance account and the employer cash balance account after a member ceases to be an employee, except that no such credit shall be made with respect to the employee cash balance account and the employer cash balance account for any day beginning on or after the member's date of final account value. If benefits payable to the member's surviving spouse or beneficiary are delayed after the member's death, interest credits shall continue to be credited to the employee cash balance account and the employer cash balance account until such surviving spouse or beneficiary commences receipt of a distribution from the plan;

(20) Member cash balance account means an account equal to the sum of the employee cash balance account and, if vested, the employer cash balance account and dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319;

(21) One-year break in service means a plan year during which the member has not completed more than five hundred hours of service;

(22) Participation means qualifying for and making the required deposits to the retirement system during the course of a plan year;

(23) Part-time employee means an employee who is employed to work less than one-half of the regularly scheduled hours during each pay period;

(24) Plan year means the twelve-month period beginning on January 1 and ending on December 31;

(25) Prior service means service before January 1, 1964;

(26) Regular interest means the rate of interest earned each calendar year commencing January 1, 1975, as determined by the retirement board in conformity with actual and expected earnings on the investments through December 31, 1984;

(27) Required beginning date means, for purposes of the deferral of distributions and the commencement of mandatory distributions pursuant to section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder, April 1 of the year following the calendar year in which a member:

(a)(i) Terminated employment with the State of Nebraska; and

(ii)(A) Attained at least seventy and one-half years of age for a member who attained seventy and one-half years of age on or before December 31, 2019;

(B) Attained at least seventy-two years of age for a member who attained seventy and one-half years of age on or after January 1, 2020, and prior to January 1, 2023;

(C) Attained at least seventy-three years of age for a member who attained seventy-two years of age after December 31, 2022, and seventy-three years of age prior to January 1, 2033; or

(D) Attained at least seventy-five years of age for a member who attained seventy-four years of age after December 31, 2032; or

(b)(i) Terminated employment with the State of Nebraska; and

(ii) Otherwise reached the date specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder;

(28) Required contribution means the deduction to be made from the compensation of employees as provided in section 84-1308;

(29) Retirement means qualifying for and accepting the retirement benefit granted under the State Employees Retirement Act after terminating employment;

(30) 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;

(31) Retirement board or board means the Public Employees Retirement Board;

(32) Retirement date means (a) the first day of the month following the date upon which a member's request for retirement is received on a retirement application if the member is eligible for retirement and has terminated employment or (b) the first day of the month following termination of employment if the member is eligible for retirement and has filed an application but has not yet terminated employment;

(33) Retirement system means the State Employees Retirement System of the State of Nebraska;

(34) Service means the actual total length of employment as an employee and shall not be deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) 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 section 84-1317;

(35) State department means any department, bureau, commission, or other division of state government not otherwise specifically defined or exempted in the act, the employees and officers of which are not already covered by a retirement plan;

(36) 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;

(37) Termination of employment occurs on the date on which the agency which employs the member determines that the member's employer-employee relationship with the State of Nebraska is dissolved. The agency which employs the member shall notify the board of the date on which such a termination has occurred. Termination of employment does not occur if an employee whose employer-employee relationship with the State of Nebraska is dissolved enters into an employer-employee relationship with the same or another agency of the State of Nebraska and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased with the state and the date when the employer-employee relationship commenced with the same or another agency. It is the responsibility of the employer that is involved in the termination of employment to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a retirement benefit has been paid to a member of the retirement system pursuant to section 84-1321, the board shall require the member who has received such benefit to repay the benefit to the retirement system; and

(38) Vesting credit means credit for years, or a fraction of a year, of participation in another Nebraska governmental plan for purposes of determining vesting of the employer account.

Source: Laws 1963, c. 532, § 1, p. 1667; Laws 1965, c. 574, § 1, p. 1864; Laws 1965, c. 573, § 1, p. 1861; Laws 1969, c. 584, § 116, p. 2420; Laws 1971, LB 987, § 33; Laws 1973, LB 498, § 1; Laws 1974, LB 905, § 8; Laws 1980, LB 818, § 3; Laws 1982, LB 942, § 8; Laws 1983, LB 223, § 4; Laws 1984, LB 747, § 6; Laws 1984, LB 751, § 1; Laws 1986, LB 325, § 15; Laws 1986, LB 529, § 54; Laws 1986, LB 311, § 29; Laws 1989, LB 506, § 19; Laws 1991, LB 549, § 60; Laws 1993, LB 417, § 6; Laws 1994, LB 1068, § 4; Laws 1996, LB 847, § 41; Laws 1996, LB 900, § 1070; Laws 1996, LB 1076, § 37; Laws 1996, LB 1273, § 30; Laws 1997, LB 624, § 35; Laws 1998, LB 1191, § 69; Laws 1999, LB 703, § 20; Laws 2000, LB 1192, § 22; Laws 2002, LB 407, § 54; Laws 2002, LB 470, § 10; Laws 2002, LB 687, § 18; Laws 2003, LB 451, § 23; Laws 2004, LB 1097, § 32; Laws 2006, LB 366, § 7; Laws 2006, LB 1019, § 14; Laws 2011, LB509, § 44; Laws 2012, LB916, § 33; Laws 2013, LB263, § 35; Laws 2017, LB172, § 85; Laws 2017, LB415, § 47; Laws 2018, LB1005, § 41; Laws

2020, LB1054, § 11; Laws 2022, LB700, § 11; Laws 2023, LB103, § 13.

Operative date May 2, 2023.

Cross References

For provisions on **Public Employees Retirement Board**, see sections 84-1501 to 84-1513.
For **Spousal Pension Rights Act**, see section 42-1101.

84-1325 Employees; military service; credit; payments; applicability.

(1)(a) For military service beginning on or after December 12, 1994, but before January 1, 2018, any employee who, while an employee, entered into and served in the armed forces of the United States and who within ninety days after honorable discharge or honorable separation from active duty again became an employee shall be credited, for the purposes of the provisions of section 84-1317, with all the time actually served in the armed forces as if such person had been an employee throughout such service in the armed forces pursuant to the terms and conditions of subdivision (b) of this subsection.

(b) Under such rules and regulations as the retirement board may adopt and promulgate, any employee who is reemployed pursuant to 38 U.S.C. 4301 et seq., may pay to the retirement system an amount equal to the sum of all deductions which would have been made from the employee's compensation during such period of military service. Payment shall be made within the period required by law, not to exceed five years. To the extent that payment is made, (i) the employee shall be treated as not having incurred a break in service by reason of the employee's period of military service, (ii) the period of military service shall be credited for the purposes of determining the nonforfeitability of the employee's accrued benefits and the accrual of benefits under the plan, and (iii) the employer shall allocate the amount of employer contributions to the employee's employer account in the same manner and to the same extent the allocation occurs for other employees during the period of service. For purposes of employee and employer contributions under this subsection, the employee's compensation during the period of military service shall be the rate the employee would have received but for the military service or, if not reasonably determinable, the average rate the employee received during the twelve-month period immediately preceding military service.

(c) The employer shall pick up the employee contributions made through irrevocable payroll deduction authorizations pursuant to this subsection, and the contributions so picked up shall be treated as employer contributions in the same manner as contributions picked up under subsection (1) of section 84-1308.

(2)(a) For military service beginning on or after January 1, 2018, any employee who is reemployed pursuant to 38 U.S.C. 4301 et seq., shall be treated as not having incurred a break in service by reason of the employee's period of military service. Such military service shall be credited for purposes of determining the nonforfeitability of the employee's accrued benefits and the accrual of benefits under the plan.

(b) The agency employing the employee shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service. To satisfy the liability, the agency employing the employee shall pay to the retirement system an amount equal to:

(i) The sum of the employee and employer contributions that would have been paid during such period of military service; and

(ii) Any actuarial costs necessary to fund the obligation of the plan to provide benefits based upon such period of military service. For the purposes of determining the amount of such liability and obligation of the plan, earnings and forfeitures, gains and losses, regular interest, interest credits, or dividends that would have accrued on the employee and employer contributions that are paid by the employer pursuant to this section shall not be included.

(c) The amount required pursuant to subdivision (b) of this subsection shall be paid to the retirement system as soon as reasonably practicable following the date of reemployment, but must be paid within eighteen months of the date the board notifies the employer of the amount due. If the employer fails to pay the required amount within such eighteen-month period, then the employer is also responsible for any actuarial costs and interest on actuarial costs that accrue from eighteen months after the date the employer is notified by the board until the date the amount is paid.

(d) The retirement board may adopt and promulgate rules and regulations to carry out this subsection, including, but not limited to, rules and regulations on:

(i) How and when the employee and employer must notify the retirement system of a period of military service;

(ii) The acceptable methods of payment;

(iii) Determining the service and compensation upon which the contributions must be made;

(iv) Accelerating the payment from the employer due to unforeseen circumstances that occur before payment is made pursuant to this section, including, but not limited to, the employee's termination or retirement or the employer's reorganization, consolidation, merger, or closing; and

(v) The documentation required to substantiate that the individual was reemployed pursuant to 38 U.S.C. 4301 et seq.

(3) This section applies to military service that falls within the definition of uniformed services under 38 U.S.C. 4301 et seq., and includes (a) preparation periods prior to military service, (b) periods during military service, (c) periods of rest and recovery authorized by 38 U.S.C. 4301 et seq., after military service, (d) periods of federal military service, and (e) periods during active service of the state provided pursuant to sections 55-101 to 55-181.

Source: Laws 1963, c. 532, § 25, p. 1676; Laws 1994, LB 833, § 52; Laws 1996, LB 847, § 47; Laws 1999, LB 703, § 26; Laws 2004, LB 1097, § 37; Laws 2017, LB415, § 51; Laws 2018, LB1005, § 48; Laws 2023, LB103, § 14.

Operative date May 2, 2023.

CHAPTER 85

STATE UNIVERSITY, STATE COLLEGES, AND POSTSECONDARY EDUCATION

Article.

1. University of Nebraska. 85-102, 85-177.
3. State Colleges. 85-328.
5. Tuition and Fees at State Educational Institutions. 85-502.01.
6. Public Institutions of Higher Education.
 - (a) Dismissal or Expulsion of Faculty or Students. 85-601 to 85-605.
 - (c) Admission. 85-607.01.
14. Coordinating Commission for Postsecondary Education.
 - (a) Coordinating Commission for Postsecondary Education Act. 85-1412.
15. Community Colleges. 85-1517, 85-1543.
18. Educational Savings Plan Trust. 85-1802.
19. Nebraska Opportunity Grant Act. 85-1906 to 85-1920.
20. Community College Gap Assistance Program Act. 85-2009.
22. Community College Aid Act. 85-2231, 85-2238.
26. First Responder Recruitment and Retention Act. 85-2601 to 85-2606.
31. Excellence in Teaching Act. 85-3101 to 85-3115.
32. Door to College Scholarship Act. 85-3201 to 85-3211.

ARTICLE 1

UNIVERSITY OF NEBRASKA

Section

- 85-102. University of Nebraska; object.
85-177. College of Law; state publications; additional copies; requisition.

85-102 University of Nebraska; object.

The object of the University of Nebraska shall be to afford to the inhabitants of this state the means of acquiring a thorough knowledge of the various branches of literature, science and arts.

Source: Laws 1869, § 2, p. 172; R.S.1913, § 7082; C.S.1922, § 6714; C.S.1929, § 85-102; R.S.1943, § 85-102; Laws 2023, LB705, § 109.

Operative date September 2, 2023.

85-177 College of Law; state publications; additional copies; requisition.

In order to enable the library of the College of Law to augment its collections, the librarian of the College of Law of the University of Nebraska is authorized to requisition from the respective officer having custody thereof up to one hundred copies of the following state publications: Legislative Journals, Session Laws, replacement volumes and supplements to the Revised Statutes, and Opinions of the Attorney General. The copies of the Legislative Journals and Session Laws may be provided in print or electronic format as the Secretary of State determines, upon recommendation by the Clerk of the Legislature and approval of the Executive Board of the Legislative Council.

Source: Laws 1947, c. 185, § 2, p. 611; Laws 1951, c. 345, § 3, p. 1133; Laws 1961, c. 243, § 5, p. 727; Laws 1995, LB 271, § 10; Laws

§ 85-177 UNIVERSITY, COLLEGES, POSTSECONDARY EDUCATION

2000, LB 534, § 8; Laws 2015, LB301, § 5; Laws 2023, LB799, § 12.

Operative date September 2, 2023.

**ARTICLE 3
STATE COLLEGES**

Section

85-328. State College Capital Improvement Fee Fund; created; use; investment.

85-328 State College Capital Improvement Fee Fund; created; use; investment.

The State College Capital Improvement Fee Fund is created. Revenue credited to the fund shall include amounts generated through assessment of a capital improvement fee under the authority of the Board of Trustees of the Nebraska State Colleges. Amounts accumulated in the fund are authorized to be expended for the purpose of paying the cost of capital improvement projects approved by the board of trustees for any facilities on campuses or lands owned or controlled by the board, except that no such amounts shall be expended for capital improvement projects relating to facilities from which revenue is derived and pledged for the retirement of revenue bonds issued under sections 85-403 to 85-411. All money accruing to the fund is appropriated to the board of trustees and shall be used for capital improvement projects authorized by the board. No expenditure may be made from the fund without prior approval by a resolution of the board of trustees. 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. All revenue, fund balances, and expenditures shall be recorded in the Nebraska State Accounting System.

Source: Laws 1998, LB 1129, § 34; Laws 2023, LB705, § 110.

Operative date September 2, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

**ARTICLE 5
TUITION AND FEES AT STATE EDUCATIONAL INSTITUTIONS**

Section

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.

85-502.01 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, air, or space service, (b) a spouse or dependent of such a veteran, or (c) an eligible recipient entitled to (i) educational assistance

as provided in 38 U.S.C. 3319 while the transferor is on active duty in the uniformed services, (ii) educational assistance as provided in 38 U.S.C. 3311(b)(8), (iii) rehabilitation as provided in 38 U.S.C. 3102(a), or (iv) educational assistance as provided in 38 U.S.C. 3510, as such sections existed on January 1, 2023, shall be considered a resident student notwithstanding 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; Laws 2021, LB669, § 6; Laws 2023, LB705, § 111.
Operative date July 1, 2023.

ARTICLE 6

PUBLIC INSTITUTIONS OF HIGHER EDUCATION

(a) DISMISSAL OR EXPULSION OF FACULTY OR STUDENTS

Section 85-601.	University of Nebraska or community college; interference with operation; faculty, administrative staff, student; dismissal or expulsion.
85-602.	University of Nebraska or community college; faculty, administrative staff, student; dismissal or expulsion; procedure.
85-603.	University of Nebraska or community college; faculty, administrative staff, student; dismissal or expulsion; order; contents; service.
85-604.	University of Nebraska or community college; governing body; rules and regulations; adopt.
85-605.	University of Nebraska or community college; interference with operation; terms, defined.

(c) ADMISSION

85-607.01.	Student application and admission process; criminal history or juvenile court record information; inquiry or consideration; prohibited; exceptions.
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(a) DISMISSAL OR EXPULSION OF FACULTY OR STUDENTS

85-601 University of Nebraska or community college; interference with operation; faculty, administrative staff, student; dismissal or expulsion.

It shall be grounds for the dismissal of any member of the faculty or administrative staff employed by, or the expulsion of any student attending, the University of Nebraska or any community college in this state to use or assist others in any way in the use of force or to counsel, recommend, or urge the use of force or the threat of force or the seizure of property under the control of such institution, or by any act or action not sanctioned by law to prevent the faculty, administrative officers, employees, or students in such institution from engaging in their normal duties in connection with the operation of the institution or pursuing their studies at such institution.

Source: Laws 1971, LB 445, § 1; Laws 2023, LB705, § 112.
Operative date September 2, 2023.

85-602 University of Nebraska or community college; faculty, administrative staff, student; dismissal or expulsion; procedure.

No person shall be dismissed or expelled under section 85-601 until such person has been accorded a public hearing under rules and regulations for the administration of sections 85-601 to 85-605 established by the governing body. Notice of such hearing and a formal written statement of the charges against such person shall be served by either registered or certified mail, sent to such person's current address as shown on the records of the University of Nebraska or community college, at least twenty days before the date set for hearing. Such person shall be entitled to file a written response to such charges, to be present in person and by counsel at the hearing, and to testify and produce other witnesses on his or her behalf.

Source: Laws 1971, LB 445, § 2; Laws 2023, LB705, § 113.
Operative date September 2, 2023.

85-603 University of Nebraska or community college; faculty, administrative staff, student; dismissal or expulsion; order; contents; service.

Dismissal or expulsion of any person under section 85-601 shall be by written order, which shall contain findings of fact upon which dismissal or expulsion is based, and shall be signed by an authorized agent of the governing body. The order shall be entered within thirty days after the hearing, shall state its effective date, and shall be served by either registered or certified mail, return receipt requested, sent to such person's current address as shown on the records of the University of Nebraska or community college.

Source: Laws 1971, LB 445, § 3; Laws 2023, LB705, § 114.
Operative date September 2, 2023.

85-604 University of Nebraska or community college; governing body; rules and regulations; adopt.

Each governing body shall adopt rules and regulations for the administration of sections 85-601 to 85-605.

Source: Laws 1971, LB 445, § 4; Laws 2023, LB705, § 115.
Operative date September 2, 2023.

85-605 University of Nebraska or community college; interference with operation; terms, defined.

For purposes of sections 85-601 to 85-605, (1) dismissal does not include the failure to renew a probationary appointment of any faculty member or administrative staff member and (2) governing body means the Board of Regents of the University of Nebraska or the Community College Board of Governors, as applicable.

Source: Laws 1971, LB 445, § 5; Laws 1993, LB 239, § 7; Laws 2023, LB705, § 116.
Operative date September 2, 2023.

(c) ADMISSION

85-607.01 Student application and admission process; criminal history or juvenile court record information; inquiry or consideration; prohibited; exceptions.

(1) Except as provided in subsection (2) of this section, no publicly funded college or university in this state shall, as part of the student application and admission process for disciplines not requiring licensure or clinical or field placements, inquire about or consider any applicant's criminal history or juvenile court record information.

(2)(a) Subsection (1) of this section does not prohibit an inquiry regarding an applicant's criminal history or juvenile court record information or consideration of such matters to the extent required by state or federal law or when such matters are voluntarily submitted by an applicant.

(b) Any inquiry regarding an applicant's criminal history or juvenile court record information and any consideration of such matters shall be strictly limited to the extent permitted by this subsection.

(3) This section does not apply to inquiries or consideration of criminal history or juvenile court record information (a) occurring subsequent to the student application and admission process as part of a professional licensure process or an academically required clinical or field placement, (b) in any application or other process relating to student housing, or (c) in any application or other process relating to any athletic program.

(4) For purposes of this section, criminal history or juvenile court record information means all records relating to an applicant's criminal history record or juvenile court record, including, but not limited to, any information or other data concerning any proceedings relating to a case, any arrest, being taken into custody, a petition, a complaint, an indictment, an information, a trial, a hearing, an adjudication, any correctional supervision, a dismissal, or any other disposition or sentence.

Source: Laws 2023, LB705, § 123.

Operative date September 2, 2023.

ARTICLE 14

COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION

(a) COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION ACT

Section

85-1412. Commission; additional powers and duties.

(a) COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION ACT

85-1412 Commission; additional powers and duties.

The commission shall have the following additional powers and duties:

(1) Conduct surveys and studies as may be necessary to undertake the coordination function of the commission pursuant to section 85-1403 and request information from governing boards and appropriate administrators of public institutions and other governmental agencies for research projects. All public institutions and governmental agencies receiving state funds shall comply with reasonable requests for information under this subdivision. Public institutions may comply with such requests pursuant to section 85-1417;

(2) Recommend to the Legislature and the Governor legislation it deems necessary or appropriate to improve postsecondary education in Nebraska and any other legislation it deems appropriate to change the role and mission

provisions in sections 85-917 to 85-966.01. The recommendations submitted to the Legislature shall be submitted electronically;

(3) Establish any advisory committees as may be necessary to undertake the coordination function of the commission pursuant to section 85-1403 or to solicit input from affected parties such as students, faculty, governing boards, administrators of the public institutions, administrators of the private nonprofit institutions of postsecondary education and proprietary institutions in the state, and community and business leaders regarding the coordination function of the commission;

(4) Participate in or designate an employee or employees to participate in any committee which may be created to prepare a coordinated plan for the delivery of educational programs and services in Nebraska through the telecommunications system;

(5) Seek a close liaison with the State Board of Education and the State Department of Education in recognition of the need for close coordination of activities between elementary and secondary education and postsecondary education;

(6) Administer the Integrated Postsecondary Education Data System or other information system or systems to provide the commission with timely, comprehensive, and meaningful information pertinent to the exercise of its duties. The information system shall be designed to provide comparable data on each public institution. The commission shall also administer the uniform information system prescribed in sections 85-1421 to 85-1427 known as the Nebraska Educational Data System. Public institutions shall supply the appropriate data for the information system or systems required by the commission;

(7) Administer (a) the Access College Early Scholarship Program Act, (b) the Community College Aid Act, (c) the Door to College Scholarship Act and the Door to College Scholarship Fund, (d) the Nebraska Community College Student Performance and Occupational Education Grant Fund under the direction of the Nebraska Community College Student Performance and Occupational Education Grant Committee, (e) the Nebraska Opportunity Grant Act and the Nebraska Opportunity Grant Fund, (f) the Postsecondary Institution Act, (g) the community college gap assistance program and the Community College Gap Assistance Program Fund, and (h) the Excellence in Teaching Act and the Excellence in Teaching Cash Fund;

(8) Accept and administer loans, grants, and programs from the federal or state government and from other sources, public and private, for carrying out any of its functions, including the administration of privately endowed scholarship programs. Such loans and grants shall not be expended for any other purposes than those for which the loans and grants were provided. The commission shall determine eligibility for such loans, grants, and programs, and such loans and grants shall not be expended unless approved by the Governor;

(9) On or before December 1 of each even-numbered year, submit to the Legislature and the Governor a report of its objectives and activities and any new private colleges in Nebraska and the implementation of any recommendations of the commission for the preceding two calendar years. The report submitted to the Legislature shall be submitted electronically;

(10) Provide staff support for interstate compacts on postsecondary education; and

(11) Request inclusion of the commission in any existing grant review process and information system.

Source: Laws 1991, LB 663, § 15; Laws 1993, LB 93, § 7; Laws 1994, LB 683, § 18; Laws 1999, LB 816, § 14; Laws 2003, LB 7, § 5; Laws 2003, LB 574, § 26; Laws 2003, LB 685, § 29; Laws 2007, LB192, § 1; Laws 2009, LB340, § 1; Laws 2010, LB956, § 3; Laws 2011, LB637, § 29; Laws 2012, LB782, § 234; Laws 2012, LB946, § 13; Laws 2013, LB211, § 1; Laws 2015, LB519, § 26; Laws 2023, LB705, § 117.
Operative date July 1, 2023.

Cross References

Access College Early Scholarship Program Act, see section 85-2101.

Community College Aid Act, see section 85-2231.

Door to College Scholarship Act, see section 85-3201.

Excellence in Teaching Act, see section 85-3101.

Integrated Postsecondary Education Data System, see section 85-1424.

Nebraska Opportunity Grant Act, see section 85-1901.

Postsecondary Institution Act, see section 85-2401.

ARTICLE 15

COMMUNITY COLLEGES

Section

- 85-1517. Board; power to certify tax levy; limit; purposes; approval required to raise levy over limit; how collected.
- 85-1543. Community college areas; distribution of funds; Coordinating Commission for Postsecondary Education; certify amounts; distributions; Community College Future Fund; created; use; investment; property tax; levy authorized, when.

85-1517 Board; power to certify tax levy; limit; purposes; approval required to raise levy over limit; how collected.

(1) For fiscal years 2011-12 and 2012-13:

(a) The board may certify to the county board of equalization of each county within the community college area a tax levy not to exceed ten and one-quarter cents on each one hundred dollars on the taxable valuation of all property subject to the levy within the community college area, uniform throughout the area, for the purpose of supporting operating expenditures of the community college area;

(b) In addition to the levies provided in subdivisions (1)(a) and (c) of this section, the board may certify to the county board of equalization of each county within the community college area a tax levy not to exceed one cent on each one hundred dollars on the taxable valuation of all property within the community college area, uniform throughout such area, for the purposes of paying off bonds issued under sections 85-1520 to 85-1527 and establishing a capital improvement and bond sinking fund as provided in section 85-1515. The levy provided by this subdivision may be exceeded by that amount necessary to retire the 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; and

(c) In addition to the levies provided in subdivisions (1)(a) and (b) of this section, the board may also certify to the county board of equalization of each county within the community college area a tax levy on each one hundred dollars on the taxable valuation of all property within the community college area, uniform throughout such area, in the amount which will produce funds only in the amount necessary to pay for funding accessibility barrier elimination project costs and abatement of environmental hazards as such terms are defined in section 79-10,110. Such tax levy shall not be so certified unless approved by an affirmative vote of a majority of the board taken at a public meeting of the board following notice and a hearing. The board shall give at least seven days' notice of such public hearing and shall publish such notice once in a newspaper of general circulation in the area to be affected by the increase. The proceeds of such tax levy shall be deposited in the capital improvement and bond sinking fund provided for in section 85-1515 for use in funding the projects authorized pursuant to this subdivision.

(2)(a) For fiscal years 2013-14 through 2023-24, the board may certify to the county board of equalization of each county within the community college area a tax levy not to exceed the difference between eleven and one-quarter cents and the rate levied for such fiscal year pursuant to subdivision (b) of this subsection on each one hundred dollars on the taxable valuation of all property subject to the levy within the community college area, uniform throughout the area, for the purpose of supporting operating expenditures of the community college area. For purposes of calculating the amount of levy authority available for operating expenditures pursuant to this subdivision, the rate levied pursuant to subdivision (b) of this subsection shall not include amounts 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. For fiscal year 2024-25 and each fiscal year thereafter, the board may certify a levy under this subdivision only if such levy is authorized under section 85-1543 or 85-2238. If so authorized, the levy provided by this subdivision may be exceeded by the amount necessary to generate sufficient revenue as described in section 85-1543 or 85-2238.

(b) For fiscal year 2013-14 and each fiscal year thereafter, in addition to the levies provided in subdivisions (a) and (c) of this subsection, the board may certify to the county board of equalization of each county within the community college area a tax levy not to exceed two cents on each one hundred dollars on the taxable valuation of all property within the community college area, uniform throughout such area, for the purposes of paying off bonds issued under sections 85-1520 to 85-1527 and establishing a capital improvement and bond sinking fund as provided in section 85-1515. The levy provided by this subdivision may be exceeded by that 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.

(c) For fiscal years 2013-14 through 2023-24, in addition to the levies provided in subdivisions (a) and (b) of this subsection, the board of a community college area with a campus located on the site of a former ammunition depot may certify to the county board of equalization of each county within the community college area a tax levy not to exceed three-quarters of one cent on each one hundred dollars on the taxable valuation of all property within the

community college area, uniform throughout such area, to pay for funding accessibility barrier elimination project costs and abatement of environmental hazards as such terms are defined in section 79-10,110. Such tax levy shall not be so certified unless approved by an affirmative vote of a majority of the board taken at a public meeting of the board following notice and a hearing. The board shall give at least seven days' notice of such public hearing and shall publish such notice once in a newspaper of general circulation in the area to be affected by the increase. The proceeds of such tax levy shall be deposited in the capital improvement and bond sinking fund provided for in section 85-1515 for use in funding accessibility barrier elimination project costs and abatement of environmental hazards as such terms are defined in section 79-10,110.

(3) The taxes provided by this section shall be levied and assessed in the same manner as other property taxes and entered on the books of the county treasurer. The proceeds of the tax, as collected, shall be remitted to the treasurer of the board not less frequently than once each month.

Source: Laws 1975, LB 344, § 15; Laws 1978, LB 922, § 5; Laws 1979, LB 363, § 2; Laws 1979, LB 187, § 251; Laws 1980, LB 599, § 16; Laws 1980, LB 824, § 2; Laws 1981, LB 320, § 1; Laws 1984, LB 881, § 1; Laws 1986, LB 796, § 1; Laws 1988, LB 38, § 1; Laws 1990, LB 1050, § 1; Laws 1992, LB 719A, § 197; Laws 1992, LB 1001, § 35; R.S.Supp.,1992, § 79-2650; Laws 1993, LB 239, § 39; Laws 1995, LB 268, § 1; Laws 1996, LB 299, § 32; Laws 1996, LB 900, § 1084; Laws 1996, LB 1114, § 69; Laws 1997, LB 269, § 72; Laws 2005, LB 38, § 4; Laws 2007, LB342, § 42; Laws 2010, LB1072, § 9; Laws 2011, LB59, § 6; Laws 2012, LB946, § 18; Laws 2012, LB1104, § 2; Laws 2023, LB243, § 20.

Operative date September 2, 2023.

85-1543 Community college areas; distribution of funds; Coordinating Commission for Postsecondary Education; certify amounts; distributions; Community College Future Fund; created; use; investment; property tax; levy authorized, when.

(1) Beginning in fiscal year 2024-25, funds shall be distributed to community college areas as provided in this section in order to offset the funds lost by community college areas due to the elimination of their levy authority under subdivisions (2)(a) and (c) of section 85-1517.

(2) The amount to be distributed to each community college area under this section shall be equal to:

(a) For fiscal year 2024-25, the amount of property taxes levied by such community college area for fiscal year 2023-24 pursuant to subdivisions (2)(a) and (c) of section 85-1517 or the amount of property taxes that would have been generated from a levy of seven and one-half cents per one hundred dollars of taxable valuation, whichever is greater, with such amount then increased by three and one-half percent or the percentage increase in the reimbursable educational units of the community college area, whichever is greater. Such amount shall be calculated by the Coordinating Commission for Postsecondary Education and certified to the community college area and to the budget

administrator of the budget division of the Department of Administrative Services by August 15, 2024; and

(b) For fiscal year 2025-26 and each fiscal year thereafter, the amount distributed under this section to such community college area in the prior fiscal year, increased by three and one-half percent or the percentage increase in the reimbursable educational units of the community college area, whichever is greater. Such amount shall be calculated by the Coordinating Commission for Postsecondary Education and certified to the community college area and to the budget administrator of the budget division of the Department of Administrative Services by August 15 of each year.

(3) The Coordinating Commission for Postsecondary Education shall annually certify the total amount to be distributed to all community college areas under subsection (2) of this section to the State Treasurer. The State Treasurer shall transfer the certified amount from the General Fund to the Community College Future Fund in ten equal payments distributed monthly beginning in September of the fiscal year and continuing through June.

(4) The Coordinating Commission for Postsecondary Education shall annually make distributions to the community college areas in the amounts determined pursuant to subsection (2) of this section. The distributions shall be made in ten equal payments distributed monthly beginning in September of the fiscal year and continuing through June. Community college areas shall receive no payments during the months of July and August.

(5) The Community College Future Fund is created. The fund shall be administered by the Coordinating Commission for Postsecondary Education and shall be used to provide state distributions to community college areas pursuant to this section. The fund shall consist of transfers 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.

(6) Beginning in fiscal year 2024-25, if the state fails to provide full funding of the amounts described in subsection (2) of this section for any fiscal year, each community college area may, if approved by a majority vote of the community college board of governors, levy an amount for such fiscal year under subdivision (2)(a) of section 85-1517 sufficient to generate revenue equal to the amount that would have been provided to the community college area under subsection (2) of this section if fully funded minus the amount that was actually provided to the community college area. The property tax levy provided for in this subsection is in addition to the maximum allowable property tax levy described in subdivision (2)(b) of section 85-1517 and any property tax levied for funding accessibility barrier elimination project costs and abatement of environmental hazards as such terms are defined in section 79-10,110.

(7) For purposes of this section, reimbursable educational unit has the same meaning as in section 85-1503.

Source: Laws 2023, LB243, § 21.

Operative date September 2, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 18
EDUCATIONAL SAVINGS PLAN TRUST

Section
85-1802. Terms, defined.

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 or, in the case of a qualified education loan payment, on behalf of a beneficiary or the sibling of a beneficiary by the Nebraska educational savings plan trust;

(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 or, in the case of a qualified education loan payment, to the extent it is not used to pay the qualified higher education expenses of the beneficiary or a sibling of the beneficiary or to the extent it does not constitute a rollover to a Roth individual retirement account as permitted by section 529 of the Internal Revenue Code, (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;

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(11) Qualified education loan payment means the payment of principal or interest on a qualified education loan as defined in 26 U.S.C. 221(d), as such section existed on January 1, 2022, of the beneficiary or a sibling of the beneficiary as described in 26 U.S.C. 152(d)(2)(B), as such section existed on January 1, 2022. For purposes of this subdivision, the aggregate total of qualified education loan payments for the qualified education loans of a single beneficiary or sibling shall not exceed ten thousand dollars for all taxable years combined. The aggregate total for qualified education loan payments for the qualified education loans of a sibling of a beneficiary shall be calculated with respect to such sibling and not with respect to the beneficiary and shall include all qualified education loan payments for loans of such sibling, including any qualified education loan payments for which such sibling is the beneficiary or the sibling of a beneficiary;

(12) Qualified higher education expenses means the certified costs of tuition and fees, books, supplies, and equipment required (a) for enrollment or attendance at an eligible educational institution or (b) for costs incurred on or after January 1, 2021, for participation in an apprenticeship program registered and certified with the United States Secretary of Labor under 29 U.S.C. 50, as such section existed on January 1, 2021. 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 on or after January 1, 2022, 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 includes qualified education loan payments. Qualified higher education expenses does not include any amounts in excess of those allowed by section 529 of the Internal Revenue Code;

(13) Section 529 of the Internal Revenue Code means such section of the code and the regulations interpreting such section; and

(14) 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; Laws 2021, LB432, § 17; Laws 2021, LB528, § 55; Laws 2022, LB864, § 1; Laws 2023, LB727, § 106. Operative date September 2, 2023.

Cross References

Nebraska Uniform Transfers to Minors Act, see section 43-2701.

ARTICLE 19

NEBRASKA OPPORTUNITY GRANT ACT

Section

85-1906. Eligible postsecondary educational institution, defined.

85-1907. Eligible student, defined.

Section

85-1920. Nebraska Opportunity Grant Fund; created; use; investment.

85-1906 Eligible postsecondary educational institution, defined.

(1) Eligible postsecondary educational institution means a public or private postsecondary educational institution:

- (a) Located in Nebraska;
- (b) Primarily engaged in the instruction of students;
- (c) Satisfying the provisions of Nebraska law relating to the approval and licensure of schools, colleges, and universities and maintaining accreditation by an accrediting organization recognized by the United States Department of Education;
- (d) Offering courses of instruction in regularly scheduled classes to regularly enrolled undergraduate students who reside in Nebraska and have received high school diplomas or their equivalent; and
- (e) Which has adopted, and has available for inspection, award refund and repayment policies.

(2) For a postsecondary educational institution not eligible prior to September 2, 2023, for purposes of this section, located in Nebraska means such eligible postsecondary educational institution:

- (a) Has established a physical location in this state where students may receive instruction; and
- (b) Maintains an administrative office in this state for the purposes of enrolling students, providing information to students about the institution, and providing student support services.

Source: Laws 2003, LB 574, § 6; Laws 2023, LB705, § 118.
Operative date September 2, 2023.

85-1907 Eligible student, defined.

Eligible student means an undergraduate student who:

- (1) Is enrolled in an eligible postsecondary educational institution;
- (2)(a) For award years through award year 2023-24, has applied for federal financial aid through the Free Application for Federal Student Aid for the applicable award year and has an expected family contribution which is equal to or less than one hundred ten percent of the maximum expected family contribution to qualify for a Federal Pell Grant in that award year; and
- (b) For award year 2024-25 and each award year thereafter, has applied for federal financial aid through the Free Application for Federal Student Aid for the applicable award year and has a student aid index which is equal to or less than one hundred ten percent of the maximum student aid index to qualify for a Federal Pell Grant in that award year;
- (3) Is a resident student who is domiciled in Nebraska as provided by section 85-502; and
- (4) Complies with all other provisions of the Nebraska Opportunity Grant Act and its rules and regulations.

Source: Laws 2003, LB 574, § 7; Laws 2010, LB956, § 7; Laws 2013, LB331, § 2; Laws 2023, LB705, § 119.
Operative date September 2, 2023.

85-1920 Nebraska Opportunity Grant Fund; created; use; investment.

The Nebraska Opportunity Grant Fund is created. Money in the fund shall include amounts transferred pursuant to section 79-3501 from the State Lottery Operation Trust Fund or, until June 30, 2024, the Nebraska Education Improvement Fund. All amounts accruing to the Nebraska Opportunity Grant Fund shall be used to carry out the Nebraska Opportunity Grant Act. 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 2003, LB 574, § 20; Laws 2010, LB956, § 18; Laws 2013, LB497, § 6; Laws 2015, LB519, § 38; Laws 2021, LB528, § 56; Laws 2023, LB705, § 120.
Operative date July 1, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 20

COMMUNITY COLLEGE GAP ASSISTANCE PROGRAM ACT

Section
85-2009. Community College Gap Assistance Program Fund; created; use; investment.

85-2009 Community College Gap Assistance Program Fund; created; use; investment.

(1) The Community College Gap Assistance Program Fund is created. The fund shall be under the direction of the committee and shall be administered by the Coordinating Commission for Postsecondary Education. The fund shall consist of money received pursuant to section 79-3501, any other money received by the state in the form of grants or gifts from nonfederal sources, such other amounts as may be transferred or otherwise accrue to the fund, and any investment income earned on the fund. The fund shall be used to carry out the community college gap assistance program pursuant to the Community College Gap Assistance Program Act. 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) In addition to community college gap assistance awarded to students, money in the fund may also be used by the committee:

(a) To establish application and funding procedures; and

(b) To assist other eligible institutions as specified in contracts entered into pursuant to subsection (4) of section 85-2010 in defraying the costs of direct staff support services, including, but not limited to, marketing, outreach, applications, interviews, and assessments related to the community college gap assistance program.

(3) Each community college may use up to ten percent of any money received from the fund to defray the costs of direct staff support services, including, but not limited to, marketing, outreach, applications, interviews, and assessments.

Source: Laws 2015, LB519, § 35; Laws 2021, LB528, § 63; Laws 2023, LB705, § 121.
Operative date July 1, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
 Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 22
COMMUNITY COLLEGE AID ACT

Section
 85-2231. Act, how cited.
 85-2238. Property tax levy; authorized, when.

85-2231 Act, how cited.

Sections 85-2231 to 85-2238 shall be known and may be cited as the Community College Aid Act.

Source: Laws 2012, LB946, § 1; Laws 2023, LB243, § 22.
 Operative date September 2, 2023.

85-2238 Property tax levy; authorized, when.

For fiscal year 2024-25 and each fiscal year thereafter, if the amount of aid provided to a community college area pursuant to the Community College Aid Act is less than the amount of aid provided to such community college area in the immediately preceding fiscal year or the amount of aid provided to such community college area in fiscal year 2022-23, whichever is greater, the community college area may, if approved by a majority vote of the community college board of governors, levy an amount under subdivision (2)(a) of section 85-1517 sufficient to generate revenue equal to the difference in aid from the immediately preceding fiscal year or fiscal year 2022-23, whichever is applicable. The property tax levy provided for in this section is in addition to the maximum allowable property tax levy described in subdivision (2)(b) of section 85-1517 and any property tax levied for funding accessibility barrier elimination project costs and abatement of environmental hazards as such terms are defined in section 79-10,110.

Source: Laws 2023, LB243, § 23.
 Operative date September 2, 2023.

ARTICLE 26
FIRST RESPONDER RECRUITMENT AND RETENTION ACT

Section
 85-2601. Act, how cited.
 85-2602. Terms, defined.
 85-2603. Law enforcement officer; legal dependent; waiver of tuition; application; certificate of verification; notice of eligibility or ineligibility; contents; appeal.
 85-2603.01. Professional firefighter; legal dependent; waiver of tuition; application; certificate of verification; notice of eligibility or ineligibility; contents; appeal.
 85-2604. State university, state college, or community college; procedures, rules, and regulations.
 85-2605. Legal dependent; agreement; terms; residency requirement.
 85-2606. Department of Revenue; powers and duties.

85-2601 Act, how cited.

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Sections 85-2601 to 85-2606 shall be known and may be cited as the First Responder Recruitment and Retention Act.

Source: Laws 2016, LB906, § 1; Laws 2023, LB727, § 107.
Operative date September 2, 2023.

85-2602 Terms, defined.

For purposes of the First Responder Recruitment and Retention Act:

(1) Associate degree program means a degree program at a community college, state college, or state university which typically requires completion of an organized program of study of at least sixty semester credit hours or an equivalent that can be shown to accomplish the same goal. Associate degree program does not include a baccalaureate degree program;

(2) Baccalaureate degree program means a degree program at a community college, state college, or state university which typically requires completion of an organized program of study of at least one hundred twenty semester credit hours or an equivalent that can be shown to accomplish the same goal;

(3) Community college means a public postsecondary educational institution which is part of the community college system and includes all branches and campuses of such institution located within the State of Nebraska;

(4) Law enforcement officer means any person who is responsible for the prevention or detection of crime or the enforcement of the penal, traffic, or highway laws of the State of Nebraska or any political subdivision of the state for more than one hundred hours per year and who is authorized by law to make arrests;

(5) Law enforcement agency means a police department in a municipality, a sheriff's office, and the Nebraska State Patrol;

(6) Professional firefighter means a firefighter or firefighter-paramedic who is a member of a paid fire department of a municipality or a rural or suburban fire protection district in this state, including a municipality having a home rule charter or a municipal authority created pursuant to a home rule charter that has its own paid fire department, and for whom firefighting is a full-time career;

(7) State college means a public postsecondary educational institution which is part of the Nebraska state college system and includes all branches and campuses of such institution located within the State of Nebraska;

(8) State university means a public postsecondary educational institution which is part of the University of Nebraska and includes all branches and campuses of such institution located within the State of Nebraska; and

(9) Tuition means the charges and cost of tuition as set by the governing body of a state university, state college, or community college.

Source: Laws 2016, LB906, § 2; Laws 2023, LB727, § 108.
Operative date September 2, 2023.

85-2603 Law enforcement officer; legal dependent; waiver of tuition; application; certificate of verification; notice of eligibility or ineligibility; contents; appeal.

(1) A law enforcement officer shall be entitled to a waiver of one hundred percent of the resident tuition charges of any state university, state college, or community college if the officer:

(a) Maintains satisfactory performance with his or her law enforcement agency;

(b) Meets all admission requirements of the state university, state college, or community college;

(c) Pursues studies leading to a degree that relates to a career in law enforcement from an associate degree program or a baccalaureate degree program; and

(d) For an officer applying for a waiver after September 2, 2023, files with the Department of Revenue documentation showing proof of employment as a law enforcement officer and proof of residence in Nebraska each year such officer or such officer's legal dependent applies for and receives the tuition waiver.

The officer may receive the tuition waiver for up to five years if he or she otherwise continues to be eligible for participation.

(2) Any legal dependent of a law enforcement officer who maintains satisfactory performance with such law enforcement officer's law enforcement agency shall be entitled to a tuition waiver of one hundred percent of the resident tuition charges of any state university, state college, or community college for an associate or baccalaureate degree program if the legal dependent executes an agreement with the state in accordance with section 85-2605. The legal dependent may receive the tuition waiver for up to five years if the law enforcement officer and the legal dependent continue to be eligible for participation. The five years of tuition waiver eligibility starts once the legal dependent applies for and receives the tuition waiver for the first time and is available to such legal dependent for the next consecutive five years.

(3) The state university, state college, or community college shall waive one hundred percent of the officer's or the legal dependent's tuition remaining due after subtracting awarded federal financial aid grants and state scholarships and grants for an eligible law enforcement officer or legal dependent during the time the officer or legal dependent is enrolled. To remain eligible, the officer or legal dependent must comply with all requirements of the institution for continued attendance and award of an associate degree or a baccalaureate degree.

(4) An application for the tuition waiver shall include a verification of the law enforcement officer's satisfactory performance as a law enforcement officer. It shall be the responsibility of the officer to obtain a certificate of verification from his or her superior officer in such officer's law enforcement agency attesting to such officer's satisfactory performance. The officer shall include the certificate of verification when the officer or the officer's legal dependent is applying to the state university, state college, or community college in order to obtain tuition waiver upon initial enrollment.

(5) Within forty-five days after receipt of a completed application, the state university, state college, or community college shall send written notice of the law enforcement officer's or legal dependent's eligibility or ineligibility for the tuition waiver. If the officer or legal dependent is determined not to be eligible for the tuition waiver, the notice shall include the reason or reasons for such

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determination and an indication that an appeal of the determination may be made pursuant to the Administrative Procedure Act.

Source: Laws 2016, LB906, § 3; Laws 2022, LB1273, § 2; Laws 2023, LB727, § 109.

Operative date September 2, 2023.

Cross References

Administrative Procedure Act, see section 84-920.

85-2603.01 Professional firefighter; legal dependent; waiver of tuition; application; certificate of verification; notice of eligibility or ineligibility; contents; appeal.

(1)(a) A professional firefighter shall be entitled to a waiver of one hundred percent of the resident tuition charges of any state university, state college, or community college if the professional firefighter:

- (i) Maintains satisfactory performance with such firefighter's fire department;
- (ii) Meets all admission requirements of the state university, state college, or community college;
- (iii) Pursues studies leading to a degree in science or medicine that relates to a career in professional firefighting from an associate degree program or a baccalaureate degree program; and
- (iv) Files with the Department of Revenue documentation showing proof of employment as a professional firefighter and proof of residence in Nebraska each year such professional firefighter or such professional firefighter's legal dependent applies for and receives the tuition waiver.

(b) The professional firefighter may receive the tuition waiver for up to five years if such professional firefighter otherwise continues to be eligible for participation.

(2) Any legal dependent of a professional firefighter who maintains satisfactory performance with such professional firefighter's fire department shall be entitled to a tuition waiver of one hundred percent of the resident tuition charges of any state university, state college, or community college for an associate or baccalaureate degree program if the legal dependent executes an agreement with the state in accordance with section 85-2605. The legal dependent may receive the tuition waiver for up to five years if the professional firefighter and the legal dependent continue to be eligible for participation. The five years of tuition waiver eligibility starts once the legal dependent applies for and receives the tuition waiver for the first time and is available to such legal dependent for the next consecutive five years.

(3) The state university, state college, or community college shall waive one hundred percent of the professional firefighter's or the legal dependent's tuition remaining due after subtracting awarded federal financial aid grants and state scholarships and grants for an eligible professional firefighter or legal dependent during the time the professional firefighter or legal dependent is enrolled. To remain eligible, the professional firefighter or legal dependent must comply with all requirements of the institution for continued attendance and award of an associate degree or baccalaureate degree.

(4) An application for the tuition waiver shall include a verification of the professional firefighter's satisfactory performance as a professional firefighter. It shall be the responsibility of the professional firefighter to obtain a certificate

of verification from the fire chief of such professional firefighter's fire department attesting to such professional firefighter's satisfactory performance. The professional firefighter shall include the certificate or verification when the professional firefighter or the professional firefighter's legal dependent is applying to the state university, state college, or community college in order to obtain tuition waiver upon initial enrollment.

(5) Within forty-five days after receipt of a completed application, the state university, state college, or community college shall send written notice of the professional firefighter's or legal dependent's eligibility or ineligibility for the tuition waiver. If the professional firefighter or legal dependent is determined not to be eligible for the tuition waiver, the notice shall include the reason or reasons for such determination and an indication that an appeal of the determination may be made pursuant to the Administrative Procedure Act.

Source: Laws 2023, LB727, § 110.

Operative date September 2, 2023.

Cross References

Administrative Procedure Act, see section 84-920.

85-2604 State university, state college, or community college; procedures, rules, and regulations.

Each state university, state college, or community college shall adopt and promulgate the procedures, rules, and regulations necessary to carry out the First Responder Recruitment and Retention Act.

Source: Laws 2016, LB906, § 4; Laws 2023, LB727, § 111.

Operative date September 2, 2023.

85-2605 Legal dependent; agreement; terms; residency requirement.

(1) Each legal dependent who is a tuition waiver recipient under the First Responder Recruitment and Retention Act shall execute an agreement with the state. Such agreement shall be exempt from the requirements of sections 73-501 to 73-510 and shall include the following terms, as appropriate:

(a) The tuition waiver recipient agrees to reside within the State of Nebraska for a period of five years following the use of the tuition waiver;

(b) Each year during the five-year period following use of the tuition waiver the tuition waiver recipient agrees to file a tax return with the Department of Revenue to document that such recipient still resides in the State of Nebraska;

(c) If the tuition waiver recipient fails to annually file a tax return to prove residency in the State of Nebraska for the five-year period following the use of the tuition waiver or fails to remain a resident of Nebraska for the five-year period following the use of the tuition waiver, the tuition waiver recipient agrees to repay the community college, state college, or state university that such tuition waiver recipient attended the amount of tuition that was waived for such individual if the community college, state college, or state university requests such payment on the dates and in the amounts requested; and

(d) Any residency, filing, or payment obligation incurred by the tuition waiver recipient under the First Responder Recruitment and Retention Act is canceled in the event of the tuition recipient's total and permanent disability or death.

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(2) The five-year residency requirement begins to run after use of the first tuition waiver and:

- (a) Completion of the five-year tuition waiver eligibility;
- (b) Completion of an undergraduate degree at a state college or state university;
- (c) Completion of a two-year degree at a community college and notification by the tuition waiver recipient to the Department of Revenue that such recipient does not intend to pursue an undergraduate degree or additional two-year degree using tuition waivers pursuant to the First Responder Recruitment and Retention Act; or
- (d) Notification by the tuition waiver recipient to the Department of Revenue that such recipient does not plan to use additional tuition waivers pursuant to the First Responder Recruitment and Retention Act.

Source: Laws 2023, LB727, § 112.
Operative date September 2, 2023.

85-2606 Department of Revenue; powers and duties.

The Department of Revenue shall administer and enforce the First Responder Recruitment and Retention Act and may adopt and promulgate rules and regulations to carry out the First Responder Recruitment and Retention Act.

Source: Laws 2023, LB727, § 113.
Operative date September 2, 2023.

ARTICLE 31

EXCELLENCE IN TEACHING ACT

Section

- 85-3101. Act, how cited.
- 85-3102. Transfer of powers, duties, and functions to Coordinating Commission for Postsecondary Education; financial obligations; contracts; documents; funds; appropriations; suit, action, or other proceeding; records; transfer; effect.
- 85-3103. Attracting Excellence to Teaching Program; created; terms, defined.
- 85-3104. Attracting Excellence to Teaching Program; purposes.
- 85-3105. Attracting Excellence to Teaching Program; administration; eligible students.
- 85-3106. Attracting Excellence to Teaching Program; eligible student; contract requirements; loan payments; suspension; loan forgiveness; amount.
- 85-3107. Enhancing Excellence in Teaching Program; created; terms, defined.
- 85-3108. Enhancing Excellence in Teaching Program; purposes.
- 85-3109. Enhancing Excellence in Teaching Program; administration; eligible student; loans.
- 85-3110. Enhancing Excellence in Teaching Program; contract requirements; loan payments; suspension; loan forgiveness; amount.
- 85-3111. Career-Readiness and Dual-Credit Education Grant Program; established; Coordinating Commission for Postsecondary Education; State Department of Education; duties; commission; rules and regulations.
- 85-3112. Excellence in Teaching Cash Fund; created; use; investment.
- 85-3113. Repayment tracking.
- 85-3114. Attracting Excellence to Teaching Program; Enhancing Excellence in Teaching Program; reports.
- 85-3115. Teacher shortage area; Excellence in Teaching Act; rules and regulations.

85-3101 Act, how cited.

Sections 85-3101 to 85-3115 shall be known and may be cited as the Excellence in Teaching Act and shall include the Attracting Excellence to

Teaching Program, the Enhancing Excellence in Teaching Program, and the Career-Readiness and Dual-Credit Education Grant Program.

Source: Laws 2000, LB 1399, § 15; Laws 2009, LB547, § 3; R.S.1943, (2014), § 79-8,132; Laws 2023, LB705, § 13.
Operative date July 1, 2024.

85-3102 Transfer of powers, duties, and functions to Coordinating Commission for Postsecondary Education; financial obligations; contracts; documents; funds; appropriations; suit, action, or other proceeding; records; transfer; effect.

(1) On and after July 1, 2024, all powers, duties, and functions that the State Department of Education had pursuant to the Excellence in Teaching Act prior to such date are transferred to the Coordinating Commission for Postsecondary Education.

(2) Any financial obligations of the State Department of Education relating to the Excellence in Teaching Act that remain unpaid as of July 1, 2024, 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 commission from any unexpended balance in the Excellence in Teaching Cash Fund.

(3) On and after July 1, 2024, whenever the State Department of Education is referred to or designated by any contract or other document in connection with any duties and functions under the Excellence in Teaching Act, such reference or designation shall apply to the commission. All contracts entered into by the State Department of Education prior to July 1, 2024, in connection with any duties and functions under the Excellence in Teaching Act are hereby recognized, with the commission succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, gifts, trusts, and grants and any appropriations of funds from prior fiscal years available to satisfy obligations incurred under such contracts shall be transferred and appropriated to the commission for the payment of such obligations. All documents and records transferred, or copies of the same, may be authenticated or certified by the commission for all legal purposes.

(4) No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2024, or which could have been commenced prior to such date, by or against the State Department of Education, the Commissioner of Education, or any employee of the State Department of Education, in relation to the discharge of duties under the Excellence in Teaching Act, shall abate by reason of the transfer of duties and functions under the Excellence in Teaching Act from the State Department of Education to the commission.

(5) On July 1, 2024, all documents and records of the State Department of Education pertaining to duties and functions under the Excellence in Teaching Act shall be transferred to the commission and shall become the property of the commission.

Source: Laws 2023, LB705, § 14.
Operative date July 1, 2024.

85-3103 Attracting Excellence to Teaching Program; created; terms, defined.

The Attracting Excellence to Teaching Program is created. For purposes of the Attracting Excellence to Teaching Program:

(1) Commission means the Coordinating Commission for Postsecondary Education;

(2) Eligible institution means a not-for-profit college or university which (a) is located in Nebraska, (b) is accredited by an accrediting agency recognized by the United States Department of Education as determined to be acceptable by the State Board of Education, (c) has a teacher education program, and (d) if a privately funded college or university, has not opted out of the program pursuant to rules and regulations;

(3) Eligible student means an individual who (a) is a full-time student, (b) is enrolled in an eligible institution in an undergraduate or a graduate teacher education program working toward his or her initial certificate to teach in Nebraska, (c) if enrolled at a state-funded eligible institution, is a resident student as described in section 85-502 or, if enrolled in a privately funded eligible institution, would be deemed a resident student if enrolled in a state-funded eligible institution, and (d) is a student majoring in a shortage area;

(4) Full-time student means, in the aggregate, the equivalent of a student who in a twelve-month period is enrolled in twenty-four semester credit hours for undergraduate students or eighteen semester credit hours for graduate students of classroom, laboratory, clinical, practicum, or independent study course work;

(5) Majoring in a shortage area means pursuing a degree which will allow an individual to be properly endorsed to teach in a shortage area;

(6) Shortage area means a secular field of teaching for which there is a shortage, as determined by the State Department of Education, of properly endorsed teachers at the time the borrower first receives funds pursuant to the program; and

(7) Teacher education program means a program of study approved by the State Board of Education pursuant to subdivision (5)(g) of section 79-318.

Source: Laws 2000, LB 1399, § 16; Laws 2003, LB 685, § 20; Laws 2009, LB547, § 4; Laws 2011, LB333, § 6; Laws 2014, LB967, § 8; Laws 2021, LB528, § 32; R.S.Supp.,2022, § 79-8,133; Laws 2023, LB705, § 15.

Operative date July 1, 2024.

85-3104 Attracting Excellence to Teaching Program; purposes.

The purposes of the Attracting Excellence to Teaching Program are to:

(1) Attract outstanding students to major in shortage areas at the teacher education programs of Nebraska's postsecondary educational institutions;

(2) Retain resident students and graduates as teachers in the accredited school districts, educational service units, and private schools or approved private schools of Nebraska; and

(3) Establish a loan contract that requires a borrower to obtain employment as a teacher in this state after graduation.

Source: Laws 2000, LB 1399, § 17; Laws 2009, LB547, § 5; Laws 2015, LB519, § 3; R.S.Supp.,2022, § 79-8,134; Laws 2023, LB705, § 16.

Operative date July 1, 2024.

85-3105 Attracting Excellence to Teaching Program; administration; eligible students.

(1) The commission shall administer the Attracting Excellence to Teaching Program either directly or by contracting with public or private entities.

(2) To be eligible for the program, an eligible student shall:

(a) Graduate in the top quarter of his or her high school class or have a minimum cumulative grade-point average of 3.0 on a four-point scale in an eligible institution;

(b) Agree to complete a teacher education program at an eligible institution and to complete the major on which the applicant's eligibility is based; and

(c) Commit to teach in an accredited or approved public or private school in Nebraska upon (i) successful completion of the teacher education program for which the applicant is applying to the Attracting Excellence to Teaching Program and (ii) becoming certified pursuant to sections 79-806 to 79-815.

(3) Eligible students may apply on an annual basis for loans in an amount of not more than three thousand dollars per year. Loans awarded to individual students shall not exceed a cumulative period exceeding five consecutive years. Loans shall only be awarded through an eligible institution. Loans shall be funded pursuant to section 85-3112.

Source: Laws 2000, LB 1399, § 18; Laws 2003, LB 685, § 21; Laws 2009, LB547, § 6; R.S.1943, (2014), § 79-8,135; Laws 2023, LB705, § 17.

Operative date July 1, 2024.

85-3106 Attracting Excellence to Teaching Program; eligible student; contract requirements; loan payments; suspension; loan forgiveness; amount.

(1)(a) Prior to receiving any money from a loan pursuant to the Attracting Excellence to Teaching Program, an eligible student shall enter into a contract with the commission. Such contract shall be exempt from the requirements of sections 73-501 to 73-510.

(b) For eligible students who applied for the first time prior to April 23, 2009, the contract shall require that if (i) the borrower is not employed as a teacher in Nebraska for a time period equal to the number of years required for loan forgiveness pursuant to subsection (2) of this section and is not enrolled as a full-time student in a graduate program within six months after obtaining an undergraduate degree for which a loan from the program was obtained or (ii) the borrower does not complete the requirements for graduation within five consecutive years after receiving the initial loan under the program, then the loan must be repaid, with interest at the rate fixed pursuant to section 45-103 accruing as of the date the borrower signed the contract, and an appropriate penalty as determined by the commission may be assessed. If a borrower fails to remain enrolled at an eligible institution or otherwise fails to meet the requirements of an eligible student, repayment of the loan shall commence within six months after such change in eligibility. The commission may by rules and regulations provide for exceptions to the conditions of repayment pursuant to this subdivision based upon mitigating circumstances.

(c) For eligible students who apply for the first time on or after April 23, 2009, the contract shall require that if (i) the borrower is not employed as a full-time teacher teaching in an approved or accredited school in Nebraska and

teaching at least a portion of the time in the shortage area for which the loan was received for a time period equal to the number of years required for loan forgiveness pursuant to subsection (3) of this section or is not enrolled as a full-time student in a graduate program within six months after obtaining an undergraduate degree for which a loan from the program was obtained or (ii) the borrower does not complete the requirements for graduation within five consecutive years after receiving the initial loan under the program, then the loan shall be repaid with interest at the rate fixed pursuant to section 45-103 accruing as of the date the borrower signed the contract and actual collection costs as determined by the commission. If a borrower fails to remain enrolled at an eligible institution or otherwise fails to continue to be an eligible student, repayment of the loan shall commence within six months after such change in eligibility. The commission may by rule and regulation provide for exceptions to the conditions of repayment pursuant to this subdivision based upon mitigating circumstances.

(2) If the borrower applied for the first time prior to April 23, 2009, and (a) successfully completes the teacher education program and becomes certified pursuant to sections 79-806 to 79-815, (b) becomes employed as a teacher in this state within six months of becoming certified, and (c) otherwise meets the requirements of the contract, payments shall be suspended for the number of years that the borrower is required to remain employed as a teacher in this state under the contract. For each year that the borrower teaches in Nebraska pursuant to the contract, payments shall be forgiven in an amount equal to the amount borrowed for one year, except that if the borrower teaches in a school district that is in a local system classified as very sparse as defined in section 79-1003 or teaches in a school district in which at least forty percent of the students are poverty students as defined in section 79-1003, payments shall be forgiven each year in an amount equal to the amount borrowed for two years.

(3)(a) If the borrower applies for the first time on or after April 23, 2009, and (i) successfully completes the teacher education program and major for which the borrower is receiving a forgivable loan pursuant to the program and becomes certified pursuant to sections 79-806 to 79-815 with an endorsement in the shortage area for which the loan was received, (ii) becomes employed as a full-time teacher teaching at least a portion of the time in the shortage area for which the loan was received in an approved or accredited school in this state within six months of becoming certified, and (iii) otherwise meets the requirements of the contract, payments shall be suspended for the number of years that the borrower is required to remain employed as a teacher in this state under the contract.

(b) Beginning after the first two years of teaching full-time in Nebraska following graduation for the degree for which the loan was received, for each year that the borrower teaches full-time in Nebraska pursuant to the contract, the loan shall be forgiven in an amount equal to three thousand dollars, except that if the borrower teaches full-time in a school district that is in a local system classified as very sparse as defined in section 79-1003, teaches in a school building that provides free meals to all students pursuant to the community eligibility provision, teaches in a school building in which at least forty percent of the formula students are poverty students as defined in section 79-1003, or teaches in an accredited or approved private school in Nebraska in which at least forty percent of the enrolled students qualified for free lunches as

determined by the most recent data available from the commission, payments shall be forgiven each year in an amount equal to six thousand dollars.

(4) Beginning on August 1, 2022, if the borrower provides service as a pre-service teacher intern for a full academic semester as part of a clinical experience within an accredited or approved public, private, denominational, or parochial school in Nebraska and subsequently passes all related semester requirements, then the loan shall be forgiven in an amount equal to one thousand dollars for such borrower.

Source: Laws 2000, LB 1399, § 20; Laws 2003, LB 685, § 22; Laws 2008, LB988, § 7; Laws 2009, LB547, § 7; Laws 2012, LB858, § 14; Laws 2013, LB497, § 4; Laws 2015, LB519, § 4; Laws 2015, LB525, § 15; Laws 2022, LB1218, § 16; R.S.Supp.,2022, § 79-8,137; Laws 2023, LB705, § 18.
Operative date July 1, 2024.

85-3107 Enhancing Excellence in Teaching Program; created; terms, defined.

The Enhancing Excellence in Teaching Program is created. For purposes of the Enhancing Excellence in Teaching Program:

(1) Approval to teach postsecondary courses by a Nebraska postsecondary educational institution means official documentation issued by a Nebraska postsecondary educational institution declaring that an individual has met the graduate degree or course requirements necessary to teach courses in a specific subject or subjects offered by the Nebraska postsecondary educational institution for postsecondary degree credit;

(2) Commission means the Coordinating Commission for Postsecondary Education;

(3) Eligible graduate program means (a) a program of study offered by an eligible institution which results in obtaining a graduate degree, (b) a graduate course of study leading to an endorsement in a shortage area specified by the State Department of Education, or (c) a graduate course of study leading to approval to teach postsecondary courses by a Nebraska postsecondary educational institution;

(4) Eligible institution means a not-for-profit college or university which (a) is located in Nebraska, (b) is accredited by an accrediting agency recognized by the United States Department of Education as determined to be acceptable by the State Board of Education, (c) has a teacher education program, and (d) if a privately funded college or university, has not opted out of the Enhancing Excellence in Teaching Program pursuant to rules and regulations;

(5) Eligible student means an individual who (a) is a certificated teacher employed to teach in an approved or accredited school in Nebraska, (b) is enrolled in an eligible graduate program, (c) if enrolled at a state-funded eligible institution, is a resident student as described in section 85-502 or, if enrolled in a privately funded eligible institution, would be deemed a resident student if enrolled in a state-funded eligible institution, (d)(i) is majoring in a shortage area, curriculum and instruction, a subject area in which the individual already holds a secular teaching endorsement, or a subject area that will result in an additional secular teaching endorsement or (ii) is applying for approval to teach postsecondary courses by a Nebraska postsecondary educational institution, which the superintendent of the school district or head

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administrator of the private, denominational, or parochial school employing the individual believes will be beneficial to the students of such school district or school as evidenced by a statement signed by the superintendent or head administrator, and (e) is applying for a loan pursuant to the Enhancing Excellence in Teaching Program to be received at a time other than during fiscal year 2011-12 or 2012-13;

(6) Majoring in a shortage area or subject area means pursuing a degree or course of study which will allow an individual to be properly endorsed to teach in such shortage area or subject area;

(7) Nebraska postsecondary educational institution means any Nebraska public postsecondary institution as defined in section 85-2403 and any private, nonprofit postsecondary institution with a principal facility in Nebraska that is exempt from the Private Postsecondary Career School Act; and

(8) Shortage area means a secular field of teaching or endorsement area for which there is a shortage, as determined by the State Department of Education, of properly endorsed teachers at the time the borrower first receives funds pursuant to the Enhancing Excellence in Teaching Program.

Source: Laws 2009, LB547, § 8; Laws 2010, LB1071, § 8; Laws 2011, LB333, § 7; Laws 2014, LB967, § 9; Laws 2015, LB519, § 5; Laws 2016, LB1066, § 13; Laws 2021, LB528, § 33; R.S.Supp.,2022, § 79-8,137.01; Laws 2023, LB705, § 19.
Operative date July 1, 2024.

Cross References

Private Postsecondary Career School Act, see section 85-1601.

85-3108 Enhancing Excellence in Teaching Program; purposes.

The purposes of the Enhancing Excellence in Teaching Program are to:

- (1) Retain teachers in the accredited school districts, educational service units, and private schools or approved private schools of Nebraska;
- (2) Improve the skills of existing teachers in Nebraska through the graduate education or endorsement programs of Nebraska's postsecondary educational institutions; and
- (3) Establish a loan contract that requires a borrower to continue employment as a teacher in this state after graduation from an eligible graduate or endorsement program.

Source: Laws 2009, LB547, § 9; Laws 2010, LB1071, § 9; Laws 2015, LB519, § 6; R.S.Supp.,2022, § 79-8,137.02; Laws 2023, LB705, § 20.
Operative date July 1, 2024.

85-3109 Enhancing Excellence in Teaching Program; administration; eligible student; loans.

- (1) The commission shall administer the Enhancing Excellence in Teaching Program either directly or by contracting with public or private entities.
- (2) To be eligible for the program, an eligible student shall:
 - (a) Agree to complete an eligible graduate program at an eligible institution and to complete the program on which the applicant's eligibility is based as determined by the State Department of Education; and

(b) Commit to teach in an accredited or approved public or private school in Nebraska upon successful completion of the eligible graduate program for which the applicant is applying to the Enhancing Excellence in Teaching Program and to maintaining certification pursuant to sections 79-806 to 79-815.

(3) Eligible students may apply on an annual basis for loans in an amount of not more than one hundred seventy-five dollars per credit hour. Loans awarded to individual students shall not exceed a cumulative period exceeding five consecutive years. Loans shall only be awarded through the commission. Loans shall be funded pursuant to section 85-3112.

Source: Laws 2009, LB547, § 10; Laws 2010, LB1071, § 10; Laws 2015, LB519, § 7; Laws 2016, LB1066, § 14; R.S.Supp.,2022, § 79-8,137.03; Laws 2023, LB705, § 21.
Operative date July 1, 2024.

85-3110 Enhancing Excellence in Teaching Program; contract requirements; loan payments; suspension; loan forgiveness; amount.

(1) Prior to receiving any money from a loan pursuant to the Enhancing Excellence in Teaching Program, an eligible student shall enter into a contract with the commission. Such contract shall be exempt from the requirements of sections 73-501 to 73-510. The contract shall require that if (a) the borrower is not employed as a full-time teacher teaching in an approved or accredited school in Nebraska for a time period equal to the number of years required for loan forgiveness pursuant to subsection (2) of this section or (b) the borrower does not complete the requirements for graduation, for the additional secular teaching endorsement, or for the approval to teach postsecondary courses by a Nebraska postsecondary educational institution within five consecutive years after receiving the initial loan under the program, then the loan shall be repaid, with interest at the rate fixed pursuant to section 45-103 accruing as of the date the borrower signed the contract and actual collection costs as determined by the commission. If a borrower fails to remain enrolled at an eligible institution or otherwise fails to meet the requirements of an eligible student, repayment of the loan shall commence within six months after such change in eligibility. The commission may by rules and regulations provide for exceptions to the conditions of repayment pursuant to this subsection based upon mitigating circumstances.

(2)(a) If the borrower (i) successfully completes the eligible graduate program for which the borrower is receiving a forgivable loan pursuant to the Enhancing Excellence in Teaching Program and maintains certification pursuant to sections 79-806 to 79-815, (ii) maintains employment as a teacher in an approved or accredited school in this state, and (iii) otherwise meets the requirements of the contract, payments shall be suspended for the number of years that the borrower is required to remain employed as a teacher in this state under the contract.

(b) For recipients who received funds for the first time prior to July 1, 2016, beginning after the first two years of teaching full-time in Nebraska following graduation for the degree for which the loan was received, for each year that the borrower teaches full-time in Nebraska pursuant to the contract, the loan shall be forgiven in an amount equal to three thousand dollars, except that if the borrower teaches full-time in a school district that is in a local system

classified as very sparse as defined in section 79-1003, teaches in a school building that provides free meals to all students pursuant to the community eligibility provision, teaches in a school building in which at least forty percent of the students are poverty students as defined in section 79-1003, or teaches in an accredited or approved private school in Nebraska in which at least forty percent of the enrolled students qualified for free lunches as determined by the most recent data available from the State Department of Education, payments shall be forgiven each year in an amount equal to six thousand dollars.

(c) For recipients who received funds for the first time on or after July 1, 2016, beginning after the first two years of teaching full-time in Nebraska following completion of the eligible graduate program for which the loan was received, for each year that the borrower teaches full-time in Nebraska pursuant to the contract, the loan shall be forgiven in an amount equal to one thousand five hundred dollars, except that if the borrower teaches full-time in a school district that is in a local system classified as very sparse as defined in section 79-1003, teaches in a school building in which at least forty percent of the students are poverty students as defined in section 79-1003, teaches in a school building that provides free meals to all students pursuant to the community eligibility provision, or teaches in an accredited private school or educational service unit or an approved private school in Nebraska in which at least forty percent of the enrolled students qualified for free lunches as determined by the most recent data available from the State Department of Education, payments shall be forgiven each year in an amount equal to one thousand five hundred dollars for the first year of loan forgiveness and three thousand dollars for each year of loan forgiveness thereafter.

Source: Laws 2009, LB547, § 11; Laws 2010, LB1071, § 11; Laws 2012, LB858, § 15; Laws 2013, LB497, § 5; Laws 2015, LB519, § 8; Laws 2015, LB525, § 16; Laws 2016, LB1066, § 15; R.S.Supp.,2022, § 79-8,137.04; Laws 2023, LB705, § 22.
Operative date July 1, 2024.

85-3111 Career-Readiness and Dual-Credit Education Grant Program; established; Coordinating Commission for Postsecondary Education; State Department of Education; duties; commission; rules and regulations.

(1) The Career-Readiness and Dual-Credit Education Grant Program is established. The program shall be administered by the Coordinating Commission for Postsecondary Education. The commission, in consultation with the State Department of Education, the Department of Labor, and any advisory committee established by the commission for such purpose, shall:

(a) Create and establish teacher education pathways enabling the instruction of dual-credit courses and career and technical education courses;

(b) Correlate and prioritize teacher education pathways with Nebraska workforce demand;

(c) Establish a grant program beginning on or after July 1, 2024, to distribute money from the Excellence in Teaching Cash Fund to teachers enrolled in education pathways leading to qualification to teach dual-credit courses and career and technical education courses;

(d) Establish a directory of available teacher education pathways in Nebraska identified by sequence and location; and

(e) On December 31, 2025, and each December 31 thereafter, electronically submit an annual report on grants awarded pursuant to the Career-Readiness

and Dual-Credit Education Grant Program to the Clerk of the Legislature. The report shall include, but not be limited to, the number and amount of grants awarded, the postsecondary educational institutions attended by grant recipients, and information regarding the completion of instructor requirements to teach dual-credit courses and career and technical education courses.

(2) The Coordinating Commission for Postsecondary Education may adopt and promulgate rules and regulations to carry out the Career-Readiness and Dual-Credit Education Grant Program.

Source: Laws 2023, LB705, § 23.

Operative date July 1, 2024.

85-3112 Excellence in Teaching Cash Fund; created; use; investment.

(1) The Excellence in Teaching Cash Fund is created. The fund shall consist of transfers by the Legislature, transfers pursuant to section 79-3501, and loan repayments, penalties, and interest payments received in the course of administering the Attracting Excellence to Teaching Program and the Enhancing Excellence in Teaching Program.

(2)(a) For all fiscal years beginning on and after July 1, 2024, the commission shall allocate on an annual basis up to two hundred fifty thousand dollars of the funds transferred pursuant to section 79-3501 for grants to teachers pursuant to the Career-Readiness and Dual-Credit Education Grant Program.

(b) For all fiscal years beginning on and after July 1, 2024, the commission shall allocate on an annual basis up to five hundred thousand dollars of the funds transferred pursuant to section 79-3501 for grants and loans to students enrolled in a teacher education program for student-teaching semesters.

(c) Of the funds remaining in the Excellence in Teaching Cash Fund after the distributions pursuant to subdivisions (a) and (b) of this subsection, for all fiscal years, the commission shall allocate on an annual basis up to four hundred thousand dollars in the aggregate of the funds to be distributed for the Attracting Excellence to Teaching Program to all eligible institutions according to the distribution formula as determined by rule and regulation. The eligible institutions shall act as agents of the commission in the distribution of the funds for the Attracting Excellence to Teaching Program to eligible students. The commission shall allocate on an annual basis up to eight hundred thousand dollars of the remaining available funds to be distributed to eligible students for the Enhancing Excellence in Teaching Program. Funding amounts granted in excess of one million two hundred thousand dollars shall be evenly divided for distribution between the two programs.

(3) Any money in the Excellence in Teaching 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 2000, LB 1399, § 19; Laws 2001, Spec. Sess., LB 3, § 6; R.S.1943, (2008), § 79-8,136; Laws 2009, LB547, § 12; Laws 2011, LB333, § 8; Laws 2014, LB967, § 10; Laws 2015, LB519, § 9; Laws 2021, LB528, § 34; R.S.Supp.,2022, § 79-8,137.05; Laws 2023, LB705, § 24.

Operative date July 1, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

85-3113 Repayment tracking.

The commission has the administrative responsibility to track borrowers and to develop repayment tracking and collection mechanisms for the Attracting Excellence to Teaching Program and the Enhancing Excellence in Teaching Program. The commission may contract for such services. When a loan has been forgiven pursuant to section 85-3106 or 85-3110, the amount forgiven may be taxable income to the borrower and the commission shall provide notification of the amount forgiven to the borrower, the Department of Revenue, and the United States Internal Revenue Service if required by the Internal Revenue Code.

Source: Laws 2000, LB 1399, § 21; Laws 2009, LB547, § 13; R.S.1943, (2014), § 79-8,138; Laws 2023, LB705, § 25.
Operative date July 1, 2024.

85-3114 Attracting Excellence to Teaching Program; Enhancing Excellence in Teaching Program; reports.

(1) Each eligible institution shall file an annual report with the commission for the Attracting Excellence to Teaching Program and the Enhancing Excellence in Teaching Program for any fiscal year in which the eligible institution receives funding to distribute to students pursuant to either or both of such programs containing such information as required by rule and regulation. On or before December 31 of each even-numbered year, the commission shall submit a report to the Governor, the Clerk of the Legislature, and the Education Committee of the Legislature on the status of the programs, the status of the borrowers, and the impact of the programs on the number of teachers in shortage areas in Nebraska and on the number of teachers receiving graduate degrees in teaching endorsement areas in Nebraska or receiving approval to teach postsecondary courses by a Nebraska postsecondary educational institution. The report submitted to the Clerk of the Legislature and the committee shall be submitted electronically. Each report shall include information on an institution-by-institution basis, the status of borrowers, and a financial statement with a description of the activity of the Excellence in Teaching Cash Fund.

(2) Any report pursuant to this section which includes information about borrowers shall exclude confidential information or any other information which specifically identifies a borrower.

Source: Laws 2000, LB 1399, § 22; Laws 2009, LB547, § 14; Laws 2011, LB333, § 9; Laws 2012, LB782, § 154; R.S.1943, (2014), § 79-8,139; Laws 2023, LB705, § 26.
Operative date July 1, 2024.

85-3115 Teacher shortage area; Excellence in Teaching Act; rules and regulations.

The State Board of Education may adopt and promulgate rules and regulations to determine teacher shortage areas. The commission may adopt and promulgate rules and regulations to carry out the Excellence in Teaching Act.

Source: Laws 2000, LB 1399, § 23; Laws 2009, LB547, § 15; R.S.1943, (2014), § 79-8,140; Laws 2023, LB705, § 27.
Operative date July 1, 2024.

ARTICLE 32

DOOR TO COLLEGE SCHOLARSHIP ACT

Section

- 85-3201. Act, how cited.
 85-3202. Terms, defined.
 85-3203. Awards to eligible students.
 85-3204. Eligible postsecondary educational institutions; duties; awards; prohibited acts.
 85-3205. Awards; review; distribute to eligible postsecondary educational institutions.
 85-3206. Award; conditions.
 85-3207. Award; recipient; requirements; termination.
 85-3208. Award recipient; discontinue attendance; award termination; remit award balance.
 85-3209. Commission; powers and duties.
 85-3210. Act; limitations.
 85-3211. Door to College Scholarship Fund; created; use; investment.

85-3201 Act, how cited.

Sections 85-3201 to 85-3211 shall be known and may be cited as the Door to College Scholarship Act.

Source: Laws 2023, LB705, § 28.
 Operative date July 1, 2023.

85-3202 Terms, defined.

For purposes of the Door to College Scholarship Act:

- (1) Award means a grant of money under the act by the commission in the form of a Door to College Scholarship to an eligible student for educational expenses;
- (2) Award year means the period beginning on July 1 through the following June 30;
- (3) Commission means the Coordinating Commission for Postsecondary Education;
- (4) Educational expenses means student costs for tuition, mandatory fees, other education-related fees, room and board, books, and other costs related to a student's education;
- (5) Eligible postsecondary educational institution means a public or private postsecondary educational institution:
 - (a) Located in Nebraska;
 - (b) Primarily engaged in the instruction of students;
 - (c) Satisfying state statutory requirements relating to the approval and licensure of schools, colleges, and universities and maintaining accreditation by an accrediting organization recognized by the United States Department of Education;
 - (d) Offering courses of instruction in regularly scheduled classes to regularly enrolled undergraduate students who reside in Nebraska and have received a high school diploma or the equivalent; and
 - (e) Which has adopted, and has available for inspection, award refund and repayment policies;
- (6) Eligible student means an undergraduate student who:

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(a) Graduated from high school from an accredited education program at a youth rehabilitation and treatment center operated and utilized in compliance with state law or graduated from an approved or accredited public, private, denominational, or parochial school within one year after being discharged from a youth rehabilitation and treatment center operated and utilized in compliance with state law;

(b) Is enrolled in an eligible postsecondary educational institution;

(c) Has applied for federal financial aid through the Free Application for Federal Student Aid for the applicable award year;

(d) Is a resident student who is domiciled in Nebraska as provided by section 85-502; and

(e) Complies with all other provisions of the Door to College Scholarship Act and any rules and regulations adopted and promulgated pursuant to the act;

(7) Full-time status means enrollment in at least twenty-four semester credit hours, thirty-six quarter credit hours, or nine hundred clock hours per award year;

(8) Part-time status means enrollment in at least twelve semester credit hours, eighteen quarter credit hours, or four hundred fifty clock hours per award year; and

(9) Undergraduate student means an individual who has not earned a first baccalaureate or professional degree and is enrolled in a postsecondary educational program which leads to, or is creditable toward, a first baccalaureate degree, associate degree, certificate, diploma, or the equivalent.

Source: Laws 2023, LB705, § 29.
Operative date July 1, 2023.

85-3203 Awards to eligible students.

The commission shall, as provided in the Door to College Scholarship Act, provide for awards to be made directly to eligible students beginning with the 2024-25 school year. An award shall not exceed a maximum of five thousand dollars annually to an eligible student with a full-time status and shall be prorated for eligible students with a part-time status. The commission may adjust the value of awards annually to make awards to all eligible applicants who apply by the application deadline set by the commission.

Source: Laws 2023, LB705, § 30.
Operative date July 1, 2023.

85-3204 Eligible postsecondary educational institutions; duties; awards; prohibited acts.

(1) Eligible postsecondary educational institutions, acting as agents of the commission, shall:

(a) Receive and process applications for awards under the Door to College Scholarship Act;

(b) Determine eligibility of students based on criteria set forth in the act; and

(c) No later than the application deadline set by the commission, make recommendations to the commission for awards to eligible students, including the name and social security number of each eligible student.

(2) An award under the Door to College Scholarship Act shall not be used by a postsecondary educational institution to reduce institutional scholarships, grants, or tuition or fee waivers that a student would otherwise be eligible to receive if such student did not receive an award under the act.

Source: Laws 2023, LB705, § 31.
Operative date July 1, 2023.

85-3205 Awards; review; distribute to eligible postsecondary educational institutions.

(1) Within thirty days after receiving recommendations pursuant to section 85-3204, the commission shall review the recommended awards for compliance with the Door to College Scholarship Act and any rules and regulations adopted and promulgated pursuant to the act and notify each eligible postsecondary educational institution of the approval or disapproval of recommended awards.

(2) The commission shall distribute to each eligible postsecondary educational institution the total award amount approved for eligible students at such institution. The eligible postsecondary educational institution shall act as an agent of the commission to disburse the awards directly to eligible students during the award year.

Source: Laws 2023, LB705, § 32.
Operative date July 1, 2023.

85-3206 Award; conditions.

An award may be granted to an eligible student for attendance at an eligible postsecondary educational institution if:

(1) The eligible student is accepted for enrollment as follows:

(a) In the case of an eligible student beginning the first year in attendance at an eligible postsecondary educational institution, such eligible student has satisfied requirements for admission and has enrolled or indicated an intent to enroll in an eligible postsecondary educational institution; or

(b) In the case of an eligible student enrolled in an eligible postsecondary educational institution following the successful completion of the student's first year in attendance, such eligible student continues to meet the requirements of the Door to College Scholarship Act and has maintained the minimum standards of performance as required by the eligible postsecondary educational institution in which the eligible student is enrolled;

(2) The eligible student receiving such award certifies that the award will be used only for educational expenses; and

(3) The eligible student has complied with the act and any rules and regulations adopted and promulgated pursuant to the act.

Source: Laws 2023, LB705, § 33.
Operative date July 1, 2023.

85-3207 Award; recipient; requirements; termination.

(1) A recipient of an award shall:

(a) Attend all required courses regularly;

(b) Meet with an assigned advisor at regular intervals to discuss academic progress and to develop a job-search plan; and

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(c) Maintain good academic standing at the eligible postsecondary educational institution without any disciplinary action by such institution.

(2) An award may be terminated if such person fails to meet the requirements of this section.

Source: Laws 2023, LB705, § 34.
Operative date July 1, 2023.

85-3208 Award recipient; discontinue attendance; award termination; remit award balance.

If an award recipient discontinues attendance before the end of the award year or the award is terminated pursuant to section 85-3207, the award recipient shall remit any award balance allowable to the eligible postsecondary educational institution in accordance with such institution's withdrawal policy. The institution shall remit such award balance to the commission in accordance with such institution's refund policy.

Source: Laws 2023, LB705, § 35.
Operative date July 1, 2023.

85-3209 Commission; powers and duties.

(1) The commission shall:

(a) Supervise the issuance of public information concerning the Door to College Scholarship Act; and

(b) Establish a reasonable and fair appeal procedure for students adversely affected by the actions of the commission or an eligible postsecondary educational institution in the distribution of funds or granting or termination of awards pursuant to the act.

(2) The commission may adopt and promulgate rules and regulations necessary to carry out the act.

Source: Laws 2023, LB705, § 36.
Operative date July 1, 2023.

85-3210 Act; limitations.

The Door to College Scholarship Act does not grant any authority to the commission to:

(1) Control or influence the policies of any eligible postsecondary educational institution because such institution accepts students who receive awards; or

(2) Require any eligible postsecondary educational institution to enroll any student receiving an award or, once admitted, to permit continued enrollment in such institution by any student receiving an award.

Source: Laws 2023, LB705, § 37.
Operative date July 1, 2023.

85-3211 Door to College Scholarship Fund; created; use; investment.

The Door to College Scholarship Fund is created. The commission shall administer the fund, which shall consist of amounts transferred from the State Lottery Operation Trust Fund pursuant to section 79-3501 prior to July 1, 2029, as well as any money transferred by the Legislature and gifts, grants, or bequests from any source, including federal, state, public, and private sources.

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All amounts accruing to the Door to College Scholarship Fund shall be used to carry out the Door to College Scholarship Act. 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 2023, LB705, § 38.
Operative date July 1, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

CHAPTER 86

TELECOMMUNICATIONS AND TECHNOLOGY

Article.

1. Telecommunications Regulation.
 - (b) Regulatory Authority. 86-125, 86-127.
 - (g) Penalties. 86-163.
3. Universal Service.
 - (b) Nebraska Telecommunications Universal Service Fund Act. 86-324, 86-328.
 - (d) Broadband Planning and Services. 86-331.
 - (f) Broadband Access Map. 86-333.
5. Public Technology Infrastructure.
 - (f) Internet Enhancement. 86-579. Repealed.
11. Rural Broadband Task Force. 86-1103.
12. Small Wireless Facilities Deployment Act. 86-1241.
13. Nebraska Broadband Bridge Act. 86-1304 to 86-1312.
15. Rural Communications Sustainability Act. 86-1501 to 86-1507.

ARTICLE 1

TELECOMMUNICATIONS REGULATION

(b) REGULATORY AUTHORITY

Section

- 86-125. Communications provider; registration; requirements; administrative fine.
 86-127. Repealed. Laws 2023, LB818, § 45.

(g) PENALTIES

- 86-163. Commission; duties.

(b) REGULATORY AUTHORITY

86-125 Communications provider; registration; requirements; administrative fine.

Notwithstanding the provisions of section 86-124:

(1) Any communications provider providing service in Nebraska shall file a registration form with and pay a registration fee to the Public Service Commission. Any communications provider shall register with the commission prior to providing service. The commission shall prescribe the registration form to be filed pursuant to this section;

(2) A communications provider providing the services described in subdivision (7)(a) of this section shall provide the commission with the name, address, telephone number, and email address of a contact person concerning:

(a) The Nebraska Telecommunications Universal Service Fund Act and related surcharges, if applicable;

(b) The Telecommunications Relay System Act and related surcharges, if applicable;

(c) The Enhanced Wireless 911 Services Act and related surcharges, if applicable; and

(d) Consumer complaints and inquiries;

(3) A communications provider providing the services described in subdivision (7)(b) of this section shall provide the commission with the name, address, telephone number, and email address of a person with managerial responsibility for Nebraska operations;

(4) A communications provider shall:

(a) Submit a registration fee at the time of submission of the registration form. The commission shall set the fee in an amount sufficient to cover the costs of administering the registration process but not to exceed fifty dollars;

(b) Keep the information required by this section current and notify the commission of any changes to such information within sixty days after the change; and

(c) Certify to the commission by January 1 each year that such communications provider does not use or provide any communications equipment or service deemed to pose a threat to national security identified on the Covered List developed pursuant to 47 C.F.R. 1.50002, as such regulation existed on January 1, 2023, and published by the Public Safety and Homeland Security Bureau of the Federal Communications Commission pursuant to the federal Secure and Trusted Communications Networks Act of 2019, 47 U.S.C. 1601 et seq., as such act existed on January 1, 2023, and the rules adopted pursuant to such act by the Federal Communications Commission on November 11, 2022, in its Report and Order FCC 22-84;

(5) The commission may, pursuant to section 75-156, administratively fine any communications provider which violates this section;

(6) This section applies to all communications providers providing service in Nebraska except for those communications providers otherwise regulated under the Nebraska Telecommunications Regulation Act; and

(7) For purposes of this section, communications provider means any entity that:

(a) Uses telephone numbers or Internet protocol addresses or their functional equivalents or successors to provide information of a user's choosing by aid of wire, cable, wireless, satellite, or other like connection, whether part of a bundle of services or offered separately, (i) which provides or enables real-time or interactive voice communications and (ii) in which the voice component is the primary function; or

(b) Provides any service, whether part of a bundle of services or offered separately, used for transmission of information of a user's choosing regardless of the transmission medium or technology employed, that connects to a network that permits the end user to engage in electronic communications, including, but not limited to, service provided directly (i) to the public or (ii) to such classes of users as to be effectively available directly to the public.

Source: Laws 2002, LB 1211, § 8; Laws 2007, LB661, § 1; Laws 2023, LB683, § 19.

Effective date May 27, 2023.

Cross References

Enhanced Wireless 911 Services Act, see section 86-442.

Mobile telecommunications service, taxation, see section 77-2703.04.

Nebraska Telecommunications Universal Service Fund Act, see section 86-316.

Telecommunications Relay System Act, see section 86-301.

86-127 Repealed. Laws 2023, LB818, § 45.

(g) PENALTIES

86-163 Commission; duties.

The commission shall file with the Clerk of the Legislature an annual report on or before September 30 of each year on the status of the Nebraska telecommunications industry. The report shall be submitted in electronic format. The report shall:

- (1) Describe the quality of telecommunications service being provided to the citizens of Nebraska;
- (2) Describe the availability of diverse and affordable telecommunications service to all of the people of Nebraska;
- (3) Describe the level of telecommunications service rates;
- (4) Describe the use and continued need for the Nebraska Telecommunications Universal Service Fund;
- (5) Describe the availability and location of 911 service and E-911 service as required by section 86-437;
- (6) Describe the availability and location of wireless 911 service or enhanced wireless 911 service as required by section 86-460;
- (7) Address the need for further legislation to achieve the purposes of the Nebraska Telecommunications Regulation Act; and
- (8) Assess, based on information provided by public safety answering points, the level of wireless E-911 location accuracy compliance for wireless carriers.

Source: Laws 1986, LB 835, § 4; Laws 1991, LB 286, § 2; Laws 1997, LB 686, § 12; Laws 2001, LB 389, § 1; Laws 2001, LB 585, § 15; R.S.Supp.,2001, § 86-804; Laws 2002, LB 1105, § 62; Laws 2002, LB 1211, § 12; Laws 2012, LB782, § 243; Laws 2016, LB938, § 31; Laws 2023, LB818, § 35.
Effective date May 25, 2023.

ARTICLE 3**UNIVERSAL SERVICE**

(b) NEBRASKA TELECOMMUNICATIONS UNIVERSAL SERVICE FUND ACT

Section

- 86-324. Nebraska Telecommunications Universal Service Fund; created; use; investment; commission; powers and duties; administrative fine.
- 86-328. Annual public hearing; notice; fund level; Prepaid Wireless Surcharge Act; applicability.

(d) BROADBAND PLANNING AND SERVICES

- 86-331. Nebraska Broadband Office; created; legislative intent; Director of Broadband; duties; decision; appeal; report; hearing.

(f) BROADBAND ACCESS MAP

- 86-333. Official Nebraska location fabric broadband access map; Nebraska Broadband Office; powers and duties; recipient of support or grant; provide information.

(b) NEBRASKA TELECOMMUNICATIONS
UNIVERSAL SERVICE FUND ACT

86-324 Nebraska Telecommunications Universal Service Fund; created; use; investment; commission; powers and duties; administrative fine.

- (1) The Nebraska Telecommunications Universal Service Fund is hereby created. The fund shall provide the assistance necessary to make universal

access to telecommunications services available to all persons in the state consistent with the policies set forth in the Nebraska Telecommunications Universal Service Fund Act. Only eligible telecommunications companies designated by the commission shall be eligible to receive support to serve high-cost areas from the fund. A telecommunications company that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Any such support should be explicit and sufficient to achieve the purpose of the act.

(2) Notwithstanding the provisions of section 86-124, in addition to other provisions of the act, and to the extent not prohibited by federal law, the commission:

(a) Shall have authority and power to subject eligible telecommunications companies to service quality, customer service, and billing regulations. Such regulations shall apply only to the extent of any telecommunications services or offerings made by an eligible telecommunications company which are eligible for support by the fund. The commission shall be reimbursed from the fund for all costs related to drafting, implementing, and enforcing the regulations and any other services provided on behalf of customers pursuant to this subdivision;

(b) Shall have authority and power to issue orders carrying out its responsibilities and to review the compliance of any eligible telecommunications company receiving support for continued compliance with any such orders or regulations adopted pursuant to the act;

(c) May withhold all or a portion of the funds to be distributed from any telecommunications company failing to continue compliance with the commission's orders or regulations;

(d) Shall withhold support distributed from the fund from any telecommunications company using or providing any communications equipment or service deemed to pose a threat to national security identified on the Covered List developed pursuant to 47 C.F.R. 1.50002, as such regulation existed on January 1, 2023, and published by the Public Safety and Homeland Security Bureau of the Federal Communications Commission pursuant to the federal Secure and Trusted Communications Networks Act of 2019, 47 U.S.C. 1601 et seq., as such act existed on January 1, 2023, and the rules adopted pursuant to such act by the Federal Communications Commission on November 11, 2022, in its Report and Order FCC 22-84. Any telecommunications company that removes, discontinues, or replaces any communications equipment or service identified on the Covered List described in this subdivision in compliance with federal law shall not be required to obtain any additional permits from any state agency or political subdivision in the removal, discontinuance, or replacement of such communications equipment or service as long as the state agency or political subdivision is properly notified of the necessary replacements and the replacement of any communications equipment is similar to the existing communications equipment;

(e) Shall require every telecommunications company to contribute to any universal service mechanism established by the commission pursuant to state law. The commission shall require, as reasonably necessary, an annual audit of any telecommunications company to be performed by a third-party certified public accountant to insure the billing, collection, and remittance of a surcharge for universal service. The costs of any audit required pursuant to this subdivision shall be paid by the telecommunications company being audited;

(f) Shall require an audit of information provided by a telecommunications company to be performed by a third-party certified public accountant for purposes of calculating universal service fund payments to such telecommunications company. The costs of any audit required pursuant to this subdivision shall be paid by the telecommunications company being audited; and

(g) May administratively fine pursuant to section 75-156 any person who violates the Nebraska Telecommunications Universal Service Fund 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.

(4) Transfers may be made from earnings on the Nebraska Telecommunications Universal Service Fund to the 211 Cash Fund at the direction of the Legislature. The State Treasurer shall transfer one million two hundred seventy-five thousand dollars on July 1, 2023, from the earnings on the Nebraska Telecommunications Universal Service Fund to the 211 Cash Fund. The State Treasurer shall transfer one million four hundred fifty-five thousand dollars on July 1, 2024, from the earnings on the Nebraska Telecommunications Universal Service Fund to the 211 Cash Fund.

Source: Laws 1997, LB 686, § 5; Laws 1999, LB 514, § 5; Laws 2000, LB 1285, § 23; Laws 2001, LB 389, § 4; R.S.Supp.,2001, § 86-1405; Laws 2002, LB 1105, § 202; Laws 2002, LB 1211, § 13; Laws 2002, Second Spec. Sess., LB 37, § 1; Laws 2017, LB331, § 57; Laws 2021, LB384, § 24; Laws 2022, LB1012, § 31; Laws 2023, LB683, § 20; Laws 2023, LB818, § 36.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB683, section 20, with LB818, section 36, to reflect all amendments.

Note: Changes made by LB683 became effective May 27, 2023. Changes made by LB818 became effective May 25, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

86-328 Annual public hearing; notice; fund level; Prepaid Wireless Surcharge Act; applicability.

(1) Annually the commission shall hold a public hearing to determine the level of the fund necessary to carry out the Nebraska Telecommunications Universal Service Fund Act. The commission shall publish notice of the hearing in at least one newspaper of general circulation in the state at least once each week for two consecutive weeks before the hearing. After the hearing, the commission shall determine the amount of the fund for the following year, including a reasonable reserve. In the initial year of the fund's operation, the commission shall determine the amount of the fund to be equivalent to the amount which, in the commission's judgment, after careful analysis, is necessary to keep approximately ninety-six percent of Nebraska households subscribed to local telecommunications service.

(2) In an emergency as determined by the commission, the commission may adjust the level of the fund, but only after a public hearing for such purpose.

(3) For purposes of service by a prepaid wireless telecommunications service provider, universal service fund contribution and surcharge obligations shall be governed by the Prepaid Wireless Surcharge Act, except that a prepaid wireless

telecommunications service provider shall continue to be subject to the audit requirements in subdivision (2)(e) of section 86-324.

Source: Laws 1997, LB 686, § 9; R.S.1943, (1999), § 86-1409; Laws 2002, LB 1105, § 206; Laws 2018, LB157, § 4; Laws 2023, LB683, § 21.
Effective date May 27, 2023.

Cross References

Annual report to Legislature, see section 86-163.
Prepaid Wireless Surcharge Act, see section 86-901.

(d) BROADBAND PLANNING AND SERVICES

86-331 Nebraska Broadband Office; created; legislative intent; Director of Broadband; duties; decision; appeal; report; hearing.

(1) It is the intent of the Legislature to ensure that all federal, state, and local government funding for broadband infrastructure and services in Nebraska be leveraged strategically to ensure that all Nebraskans have access to affordable, reliable broadband services before January 1, 2028. To accomplish this intent, the Nebraska Broadband Office is created. The office shall be headed by the Director of Broadband. The director shall be appointed by and serve at the pleasure of the Governor with the approval of a majority of the Legislature. For administrative and budgetary purposes, the Nebraska Broadband Office shall be located in the Department of Transportation. All administrative and budgetary decisions for the Nebraska Broadband Office shall be made by the Director of Broadband.

(2) The Nebraska Broadband Office shall:

(a) Through active outreach, collaborate with officials at all levels of government and with stakeholders, which may include, but not be limited to, businesses and industries, community foundations, local governments, local or regional economic development organizations, schools, colleges, other educational entities, public libraries, health care institutions, financial institutions, agricultural producers, telecommunications providers, public power districts, electric cooperatives, nonprofit organizations, and other interested entities;

(b) Through such collaboration, develop a strategic plan that maximizes the use of public and private resources and encourages innovative models for ownership of infrastructure that is used for both private and public purposes;

(c) Direct the coordination among state agencies, boards, and commissions on policy matters affecting use of federal or state funding for broadband infrastructure deployment, operation, and maintenance;

(d) Conduct state advocacy on broadband issues at the federal level, including the accuracy of federal mapping and speed data;

(e) Ensure that all governmental funding is utilized in a cost-effective and accountable manner for Nebraska broadband projects;

(f) Oversee the coordination of programs for broadband users, such as libraries and schools, and digital equity and inclusion projects;

(g) Provide resources and assistance for local and regional broadband planning; and

(h) Provide resources and information to the public through a website and other communication modes.

(3) If any final decision of the Nebraska Broadband Office relating to funding for broadband projects is appealed to district court, the appeal shall take precedence on the trial docket over all other cases and shall be assigned for hearing, trial, or argument at the earliest practicable date and expedited in every way.

(4)(a) On or before December 1 of each year, the Nebraska Broadband Office shall file with the Clerk of the Legislature an annual report on the status of broadband within the State of Nebraska. The report shall:

(i) Describe the status of all publicly administered broadband deployment programs, including the number of projects funded through October of the report year;

(ii) Describe the quality of broadband service being provided to Nebraska residents;

(iii) Provide any updates to the strategic plan developed under subdivision (2)(b) of this section;

(iv) Summarize the Nebraska Broadband Office's outreach efforts and collaboration with all interested stakeholders;

(v) Provide an update on efforts to promote digital equity and inclusion on behalf of Nebraska residents; and

(vi) Provide an update on state advocacy on broadband issues being conducted at the federal level.

(b) Upon receipt of such report, the Transportation and Telecommunications Committee of the Legislature shall hold a public hearing to allow an opportunity for public comment on the report.

Source: Laws 2020, LB992, § 8; Laws 2023, LB683, § 22.
Effective date May 27, 2023.

(f) BROADBAND ACCESS MAP

86-333 Official Nebraska location fabric broadband access map; Nebraska Broadband Office; powers and duties; recipient of support or grant; provide information.

(1) The Nebraska Broadband Office may create and maintain an official Nebraska location fabric broadband access map showing broadband availability and quality of service for all serviceable locations in Nebraska utilizing any federal funding that is made available for such purpose. For purposes of this section, serviceable location means any residence, dwelling, business, or building where an entity provides or may provide broadband services.

(2) The Nebraska Broadband Office may contract with private parties to create, improve, and maintain the map. When contracting with private parties, the office shall give preference to contractors providing mapping services to the Federal Communications Commission. The office may collect from providers of broadband services any information necessary to establish and update the map. Any information provided to the office by a provider of broadband services pursuant to this section that is confidential, proprietary, or a trade secret as defined in section 87-502 shall be treated as such by the office.

(3) Any recipient of support from the Nebraska Telecommunications Universal Service Fund shall comply with the provisions of this section. Any grant recipient under the Nebraska Broadband Bridge Act, including any entity that

operates as an eligible telecommunications carrier in Nebraska as defined in section 86-1302 that wishes to participate in the Broadband Bridge Program created under section 86-1303, either directly or as a challenging party under section 86-1307, shall comply with the provisions of this section. Any grant recipient of federal broadband funding administered by the Nebraska Broadband Office shall comply with the provisions of this section.

(4) After the Federal Communications Commission completes the national Broadband Serviceable Location Fabric and accompanying National Broadband Availability Map, the Nebraska Broadband Office shall annually evaluate whether the continued maintenance of any annually updated Nebraska location fabric broadband access map created and maintained in accordance with this section is necessary. The office shall report its annual findings pursuant to this subsection to the Transportation and Telecommunications Committee of the Legislature.

(5) The Nebraska Broadband Office shall utilize funding provided by the federal Broadband Equity, Access, and Deployment Program authorized under the federal Infrastructure Investment and Jobs Act, Public Law 117-58, to carry out this section.

Source: Laws 2022, LB1144, § 2; Laws 2023, LB683, § 23.
Effective date May 27, 2023.

Cross References

Nebraska Broadband Bridge Act, see section 86-1301.

ARTICLE 5

PUBLIC TECHNOLOGY INFRASTRUCTURE

(f) INTERNET ENHANCEMENT

Section
86-579. Repealed. Laws 2023, LB818, § 45.

(f) INTERNET ENHANCEMENT

86-579 Repealed. Laws 2023, LB818, § 45.

ARTICLE 11

RURAL BROADBAND TASK FORCE

Section
86-1103. Rural Broadband Task Force Fund; created; use; investment.

86-1103 Rural Broadband Task Force Fund; created; use; investment.

The Rural Broadband Task Force Fund is created. The fund shall be used to carry out the purposes of the Rural Broadband Task Force as described in section 86-1102. For administrative purposes, the fund shall be located in the Nebraska Information Technology Commission. The fund shall consist of money appropriated or transferred by the Legislature and gifts, grants, or bequests from any source, including federal, state, public, and private sources. 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 2018, LB994, § 3; Laws 2021, LB384, § 26; Laws 2023, LB683, § 24.

Effective date May 27, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 12

SMALL WIRELESS FACILITIES DEPLOYMENT ACT

Section

86-1241. Authority; powers and duties; limitations.

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. This subsection does not apply to the activities of a communications service provider that are outside the scope of the Small Wireless Facilities Deployment Act.

Source: Laws 2019, LB184, § 41; Laws 2023, LB683, § 25.

Effective date May 27, 2023.

ARTICLE 13

NEBRASKA BROADBAND BRIDGE ACT

Section

86-1304. Grant; purpose; application; matching funds; required, when; qualifications; testing; repayment, when; restriction on eligibility.

Section

86-1309. Nebraska Broadband Bridge Fund; created; use; investment.

86-1312. Federal funds; administration; coordination; allocation.

86-1304 Grant; purpose; application; matching funds; required, when; qualifications; testing; repayment, when; restriction on eligibility.

(1)(a) A provider, a cooperative, a political subdivision, or an Indian tribe may apply to the commission for a grant on forms provided by the commission. The grant shall only be used for development costs for a qualifying project. The application shall indicate the project area. The applicant shall provide matching funds equal to fifty percent of the total development costs of the project if located outside a high-cost area, or twenty-five percent of the total development costs of the project if located inside a high-cost area, as such areas are determined by the commission. The matching funds requirement in this subdivision shall not apply to any portion of a grant comprised of federal funds. In order to qualify, the project is required to provide broadband Internet service scalable to one hundred megabits per second for downloading and one hundred megabits per second for uploading, or greater. The commission shall establish deadlines for applications and publish notice of the deadlines on the commission's website.

(b) An application from a political subdivision or an Indian tribe shall be made as part of a public-private partnership with a provider.

(2)(a) As part of the application, the applicant shall agree to complete the project within eighteen months after the date the grant is awarded. The commission may permit extensions upon request and for good cause shown.

(b) If a grant recipient fails to complete the project by the agreed or extended deadline, as the case may be, the recipient shall repay the grant as provided in this subdivision. If no extension is permitted, ten percent of the grant shall be repaid for each month that the project is not complete after the eighteen-month period, up to one hundred percent of the grant. If an extension is permitted, twenty percent of the grant shall be repaid for each month that the project is not complete after the extension period, up to one hundred percent of the grant.

(3)(a) As part of the application, the applicant shall agree to submit the broadband network completed as a result of the grant to speed tests as determined by the commission. The grant recipient shall conduct the speed tests and submit the results to the commission. The speed tests shall be conducted for one week using a random sample of locations of consumers who subscribe to the network completed as a result of the grant.

(b) If the broadband network does not provide service at the speeds required pursuant to subdivision (1)(a) of this section according to the speed tests under subdivision (3)(a) of this section, the grant recipient shall be allowed a reasonable time to address the speed deficiencies and conduct a second set of speed tests as described in subdivision (3)(a) of this section. If the broadband network does not provide service at the speeds required pursuant to subdivision (1)(a) of this section according to the second set of speed tests, the grant recipient shall repay the grant.

(4) No applicant shall be eligible to receive a grant if such applicant uses or provides any communications equipment or service deemed to pose a threat to national security identified on the Covered List developed pursuant to 47 C.F.R. 1.50002, as such regulation existed on January 1, 2023, and published by the

Public Safety and Homeland Security Bureau of the Federal Communications Commission pursuant to the federal Secure and Trusted Communications Networks Act of 2019, 47 U.S.C. 1601 et seq., as such act existed on January 1, 2023, and the rules adopted pursuant to such act by the Federal Communications Commission on November 11, 2022, in its Report and Order FCC 22-84.

Source: Laws 2021, LB388, § 4; Laws 2022, LB1144, § 6; Laws 2023, LB683, § 26.
Effective date May 27, 2023.

86-1309 Nebraska Broadband Bridge Fund; created; use; investment.

(1) The Nebraska Broadband Bridge Fund is created. The fund shall consist of money appropriated by the Legislature and federal funds designated by the Governor for broadband enhancement purposes. The commission shall administer the fund and use the fund to finance grants for qualifying projects under the Nebraska Broadband Bridge Act and for expenses of the commission as appropriated by the Legislature for administering the fund.

(2) Any money in the Nebraska Broadband Bridge 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 2021, LB388, § 9; Laws 2023, LB683, § 27.
Effective date May 27, 2023.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

86-1312 Federal funds; administration; coordination; allocation.

(1) Any political subdivision of the state that allocates funds received under the federal American Rescue Plan Act of 2021 for eligible broadband infrastructure projects may coordinate with the commission by mutual consent to administer such federal funds in a manner consistent with the Nebraska Broadband Bridge Act.

(2) In administering federal funds pursuant to subsection (1) of this section, the commission may allocate such funds received for eligible projects awarded grants under subdivision (1)(c) of section 81-12,245 to any portion of a local exchange area containing a city of the second class or village.

Source: Laws 2022, LB1144, § 11; Laws 2023, LB683, § 28.
Effective date May 27, 2023.

ARTICLE 15

RURAL COMMUNICATIONS SUSTAINABILITY ACT

Section

86-1501. Act, how cited.

86-1502. Policy of state.

86-1503. Terms, defined.

86-1504. Deployment project area; determination.

86-1505. Broadband deployment program; compliance; deployment project area; support; transfer.

86-1506. Commission; prohibited acts.

86-1507. Rules and regulations.

86-1501 Act, how cited.

Sections 86-1501 to 86-1507 shall be known and may be cited as the Rural Communications Sustainability Act.

Source: Laws 2023, LB683, § 12.
Effective date May 27, 2023.

86-1502 Policy of state.

It is hereby declared to be the policy of this state to ensure that all Nebraskans have access to affordable and reliable communications services in rural high-cost areas, and to ensure the long-term sustainability of infrastructure necessary to preserve such access.

Source: Laws 2023, LB683, § 13.
Effective date May 27, 2023.

86-1503 Terms, defined.

For purposes of the Rural Communications Sustainability Act:

(1) Broadband deployment program means a federal or state program authorizing payment of public funds for the purpose of deployment of communications infrastructure;

(2) Commission means the Public Service Commission;

(3) Communications infrastructure means infrastructure, facilities, and equipment capable of providing broadband or telecommunications services;

(4) Competitive provider means a communications provider as defined in section 86-125, including, but not limited to, lawfully franchised cable providers and competitive local exchange carriers in a local exchange area;

(5) Deployment project area means a contiguous geographic area consisting of locations serviceable by broadband or telecommunications services determined by the granting agency for a project funded under a broadband deployment program. A deployment project area may consist of geographical areas in more than one local exchange area;

(6) Eligible telecommunications carrier has the same meaning as in section 86-134;

(7) Granting agency means any state agency or political subdivision of the state which has authority to award, grant, direct, or redirect public funds under a broadband deployment program;

(8) Incumbent carrier means an incumbent carrier in a local exchange area as defined by rules and regulations adopted and promulgated by the commission; and

(9) Local exchange area has the same meaning as in section 86-115.

Source: Laws 2023, LB683, § 14.
Effective date May 27, 2023.

86-1504 Deployment project area; determination.

When determining a deployment project area, the granting agency shall collaborate with the Nebraska Broadband Office and the commission to ensure compliance with the Rural Communications Sustainability Act.

Source: Laws 2023, LB683, § 15.
Effective date May 27, 2023.

86-1505 Broadband deployment program; compliance; deployment project area; support; transfer.

After a granting agency makes final payment of public funds under a broadband deployment program to a competitive provider in a deployment project area that is part of a local exchange area served by an incumbent carrier, upon request by the incumbent carrier the commission shall:

- (1) Upon finding that the granting agency has determined the competitive provider is in compliance with all requirements of the broadband deployment program, relieve the incumbent carrier of eligible telecommunications carrier obligations and carrier of last resort obligations in the deployment project area;
- (2) Consistent with rules of procedure adopted and promulgated by the commission, make determinations related to allocations and distributions of support from the Nebraska Telecommunications Universal Service Fund for the deployment project area; and
- (3) In coordination with the Federal Communications Commission, and in consultation with the incumbent carrier and the competitive provider, determine whether eligible telecommunications carrier and carrier of last resort obligations corresponding with support from the Nebraska Telecommunications Universal Service Fund in the deployment project area should be transferred to the competitive provider.

Source: Laws 2023, LB683, § 16.
Effective date May 27, 2023.

86-1506 Commission; prohibited acts.

In carrying out the Rural Communications Sustainability Act, the commission shall not:

- (1) Require a competitive provider to accept or receive support from the Nebraska Telecommunications Universal Service Fund;
- (2) Impose eligible telecommunications carrier responsibilities or carrier of last resort obligations relating to the Nebraska Telecommunications Universal Service Fund Act on a competitive provider in any deployment project area where the incumbent carrier or competitive provider is not actually receiving support from the Nebraska Telecommunications Universal Service Fund; or
- (3) Impose eligible telecommunications carrier responsibilities or carrier of last resort obligations on an incumbent carrier that are not in existence as of the date of final payment made pursuant to section 86-1505.

Source: Laws 2023, LB683, § 17.
Effective date May 27, 2023.

86-1507 Rules and regulations.

The commission may adopt and promulgate rules and regulations as necessary to carry out the Rural Communications Sustainability Act.

Source: Laws 2023, LB683, § 18.
Effective date May 27, 2023.

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 federal Electronic Fund Transfer Act.

Part 1

SUBJECT MATTER AND DEFINITIONS**4A-108 Relationship to federal 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 federal Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as such act existed on January 1, 2023.

(b) This article applies to a funds transfer that is a remittance transfer as defined in the federal Electronic Fund Transfer Act, 15 U.S.C. 1693o-1, as such section existed on January 1, 2023, unless the remittance transfer is an electronic fund transfer as defined in the federal Electronic Fund Transfer Act, 15 U.S.C. 1693a, as such section existed on January 1, 2023.

(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 federal Electronic Fund Transfer Act, the provision of the federal 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; Laws 2020, LB909, § 54; Laws 2021, LB363, § 33; Laws 2022, LB707, § 61; Laws 2023, LB92, § 85.

Operative date June 7, 2023.

APPENDIX

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
28-416 Offenses relating to amphetamine or methamphetamine in a quantity of 28 grams or more involving minors or near youth facilities

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CLASS IB FELONY

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 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

APPENDIX

CLASS IC FELONY

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
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

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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, 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

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CLASS ID FELONY

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
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

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CLASS 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
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

APPENDIX

CLASS II FELONY

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
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
28-316.01	Sexual abuse by a school employee in the first degree
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

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CLASS IIA FELONY

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
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, or when person should have known or had reasonable cause to believe, firearm 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

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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

2-1220	Knowingly and willfully commit fraudulent acts regarding racehorses
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, 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

APPENDIX

CLASS III FELONY

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
28-638	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

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CLASS III 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
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
54-1,124.01	Willfully and knowingly apply, remove, damage, or alter an approved nonvisual identifier or expunge, alter, render inaccessible, or otherwise corrupt its recorded or imbedded information with intent to deprive or falsely assert ownership
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

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CLASS III FELONY

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 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
28-316.01	Sexual abuse by a school employee in the second 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

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CLASS IIIA FELONY

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
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

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CLASS IIIA FELONY

- 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

- 2-1215 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
- 2-1825 Forge, counterfeit, or use without authorization an inspection legend or certificate of Director of Agriculture on potatoes
- 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

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CLASS IV FELONY

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
9-1114	Knowingly make a false or misleading statement or entry or fail to maintain or make any such entry in any report or record required to be maintained or submitted by the Nebraska Racetrack Gaming Act
9-1207	Willful failure, neglect, or refusal of an authorized gaming operator to make any required report
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
23-3113	County purchasing agent or staff member violating County Purchasing Act
25-1673	Illegal disclosure of juror names
25-1676	Placing names on any jury list in a manner not authorized by the Jury Selection Act
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,

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	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
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
28-316.01	Sexual abuse by a school employee 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, 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
28-374.04	Intentional and knowing performance of an unlawful dismemberment abortion
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

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CLASS IV FELONY

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
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

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CLASS IV FELONY

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
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

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CLASS IV FELONY

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
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	Minor or prohibited person carrying a concealed weapon, second or subsequent offense
28-1202.04	Failure to immediately inform peace officer or emergency services personnel of concealed handgun, third 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
28-1205	Carrying firearm or destructive device during commission of a dangerous misdemeanor, third or subsequent 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

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CLASS IV FELONY

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
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

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CLASS IV FELONY

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
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
54-2955	Violation of embargo or importation order by State Veterinarian
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

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	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
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

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CLASS IV FELONY

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
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, account for, or pay, or prepare or present a false or fraudulent return 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

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CLASS IV FELONY

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 section 404 of federal Clean Water Act, Environmental Protection Act, Integrated Solid Waste Management Act, or Livestock Waste Management Act
81-15,111	Violation of Low-Level Radioactive Waste Disposal Act
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

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UNCLASSIFIED FELONIES, see section 28-107

- 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

CLASS I MISDEMEANOR

Maximum–not more than one year imprisonment, or one thousand dollars' fine, or both

Minimum–none

- 2-1207 Knowingly aiding or abetting a person under 21 years of age to make a parimutuel wager
- 2-1221 Receipt or delivery of certain off-track wagers
- 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

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CLASS I MISDEMEANOR

- 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
- 9-1111 Knowingly cheat at any game of chance or manipulate any component of a gaming device with intent to cheat and knowledge of affecting the outcome of the game
- 9-1112 Knowingly use tokens or currency not approved by the Nebraska Gaming Commission
- 9-1112 Knowingly possess any device within a gaming facility intended to violate the Nebraska Racetrack Gaming Act
- 9-1112 Unauthorized and knowing possession of any key or device within a gaming facility used to open, enter, or affect the operation of any game, dropbox, or related electronic or mechanical device connected to such game or dropbox
- 9-1112 Knowingly and with intent to use any paraphernalia used for manufacturing slugs for cheating or possession of such paraphernalia
- 9-1113 Manufacture, sell, or distribute a device intended for use in violating the Nebraska Racetrack Gaming Act or knowingly possess any gaming device manufactured, sold, or distributed in violation of the act
- 9-1113 Mark, alter, or otherwise modify any gaming device to affect or alter a wager, game operation, or game outcome
- 9-1115 Participate in a game of chance when younger than 21 years of age or knowingly permit such person younger than 21 years of age to participate
- 9-1116 Willfully violate, attempt to violate, or conspire to violate any provision of the Nebraska Racetrack Gaming Act for which no other penalty is provided
- 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
- 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

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CLASS I MISDEMEANOR

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
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

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CLASS I MISDEMEANOR

- 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
- 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

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CLASS I MISDEMEANOR

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
28-645	Criminal impersonation by stolen valor
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
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

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CLASS I MISDEMEANOR

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	Minor or prohibited person carrying a concealed weapon, first offense
28-1202.01	Person other than a minor or prohibited person carrying a concealed handgun into or onto any place or premises where prohibited, second or subsequent offense
28-1202.02	Carrying concealed handgun while consuming alcohol or having alcohol or any controlled substance in person's system, second or subsequent offense
28-1202.03	Failure to carry identification document while carrying concealed handgun, second or subsequent offense
28-1202.03	Failure to display identification document to peace officer or emergency services personnel when carrying concealed handgun, second or subsequent offense
28-1202.04	Failure to immediately inform peace officer or emergency services personnel of concealed handgun, second offense
28-1202.04	Failure to submit to an order to secure a handgun
28-1204	Unlawful possession of a handgun
28-1205	Carrying firearm or destructive device during the commission of a dangerous misdemeanor, first or second offense
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
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

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CLASS I MISDEMEANOR

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 video recording 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
32-1518	Member of governing body of political subdivision, failure or refusal to order recall election
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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CLASS I MISDEMEANOR

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
48-821	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
54-903	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, 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
54-2955	Failure to develop or follow a required herd management plan
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

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CLASS I MISDEMEANOR

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
69-2442	Failure of permitholder to report discharge of handgun that causes injury to a person or damage to property, second or subsequent offense
71-458	Violation of Health Care Facility Licensure Act
71-649	Vital statistics, unlawful acts
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)

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CLASS I MISDEMEANOR

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
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
2-1811	Violation of Nebraska Potato Development Act

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CLASS II MISDEMEANOR

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
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
14-227	Failure to remit fines, penalties, and forfeitures to city treasurer
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,

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CLASS II MISDEMEANOR

	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
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,

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CLASS II MISDEMEANOR

	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
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

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CLASS II MISDEMEANOR

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 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

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CLASS II MISDEMEANOR

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
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
54-861	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
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

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CLASS II MISDEMEANOR

54-2955	Violation of Animal Health and Disease Control Act, Exotic Animal Auction or Exchange Venue Act, or rules and regulations
54-2323	Violation of Domesticated Cervine Animal 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
57-1620	Violation of any provision of Nebraska Geologic Storage of Carbon Dioxide Act or rules and regulations or orders under act
57-1620	Make or cause to be made any false entry or statement in any report, record, account, or memorandum required by the Nebraska Geologic Storage of Carbon Dioxide Act or destroy, mutilate, or alter the same
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
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

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CLASS II MISDEMEANOR

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
71-3436	Intentionally or knowingly violating confidentiality requirements of Overdose Fatality Review Teams Act
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
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

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CLASS II MISDEMEANOR

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
81-8,205	Unlawful practice as, employment of, advertisement as, or application to become a professional landscape architect, second or subsequent offense
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
84-305.02	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

CLASS III MISDEMEANOR

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
2-3416	Violation of Nebraska Poultry and Egg Resources Act
2-3635	Violation of Nebraska Corn Resources Act
2-3765	Violation of Dry Bean Resources Act
2-3963	Violation of Dairy Industry Development Act
2-4020	Violation of Grain Sorghum Resources Act
2-4118	Violation of Dry Pea and Lentil Resources Act
2-5605	Violations relating to excise taxes on grapes

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CLASS III MISDEMEANOR

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 elected or appointed city or village officer or such officer accepting special rates
18-306	Electric company providing special rates to elected or appointed city or village officer
18-307	Elected or appointed city or village officer accepting electric service at special rates
18-308	Water company providing special rates to elected or appointed 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 a person who is blind, deaf, or who has a disability and denying or interfering with admittance to or enjoyment of public facilities
20-129	Interfering with rights of a service animal trainer and denying or interfering 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
28-385	Wrongful release of information gathered under Adult Protective Services Act
28-403	Administering secret medicine

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CLASS III MISDEMEANOR

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
28-1202.01	Person other than a minor or prohibited person carrying a concealed handgun into or onto any place or premises where prohibited, first offense
28-1202.02	Carrying concealed handgun while consuming alcohol or having alcohol or any controlled substance in person's system, first offense
28-1202.03	Failure to carry identification document while carrying concealed handgun, first offense

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CLASS III MISDEMEANOR

- 28-1202.03 Failure to display identification document to peace officer or emergency services personnel when carrying concealed handgun, first offense
- 28-1202.04 Failure to immediately inform peace officer or emergency services personnel of concealed handgun, first offense
- 28-1209 Failure to register tranquilizer guns
- 28-1210 Failure to notify sheriff of sale of tranquilizer gun
- 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 cigars, cigarettes, cigarette paper, electronic nicotine delivery systems, or alternative nicotine products to any person under 21 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 cigars, tobacco, cigarettes, cigarette material, electronic nicotine delivery systems, or alternative nicotine products to any person under 21 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

APPENDIX

CLASS III MISDEMEANOR

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
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

APPENDIX

CLASS III MISDEMEANOR

- 37-510 Violating game shipment requirements
- 37-511 Violating importation restrictions on game shipments
- 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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CLASS III MISDEMEANOR

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
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

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CLASS III MISDEMEANOR

48-216	Discrimination in employment by manufacturer or distributor of military supplies
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
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

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CLASS III MISDEMEANOR

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
54-904	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
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
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

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CLASS III MISDEMEANOR

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 certain 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
60-6,211.11	Operating a motor vehicle with a 24/7 sobriety program permit and a concentration of .02 of one gram or more by weight of alcohol per 100 milliliters of blood or .02 of one gram or more by weight of alcohol per 210 liters of breath or refusing a chemical test
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
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

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CLASS III MISDEMEANOR

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
69-2442	Failure of permit holder to report discharge of handgun that causes injury to a person or damage to property, 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
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

APPENDIX

CLASS III MISDEMEANOR

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 offer, attempt, or agreement to practice, or unlawful practice or advertisement 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
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, employment of, advertisement as, or application to become a professional landscape architect, first offense
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

APPENDIX

CLASS III MISDEMEANOR

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

14-229	City officer or employee exerting influence regarding political views
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
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

APPENDIX

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
2-957	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
2-1806	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
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
28-476	Intentionally failing to carry or transport hemp not produced in compliance with, or without documentation required under, the Nebraska Hemp Farming Act
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

APPENDIX

CLASS IV MISDEMEANOR

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
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
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

APPENDIX

CLASS IV MISDEMEANOR

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
54-861	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 recklessly abandoning or cruelly neglecting livestock animal not resulting in serious injury or illness or death of the livestock animal
54-1605	Violation of accreditation provisions for specific pathogen-free swine
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
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

APPENDIX

CLASS IV MISDEMEANOR

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
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
71-5312	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

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CLASS IV MISDEMEANOR

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
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
76-3602	Failure of a home inspector to register with the Secretary of State
76-3603	Failure of a home inspector to pay registration fee or provide a certificate of insurance
76-3604	Failure of a home inspector to report a change of information within 30 business days
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	Retailer engaging in business without a sales and use tax permit or after permit is suspended
77-2713	Giving resale certificate for property purchased for use rather than for resale, lease, or rental
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
81-15,289	Mobile home park established, conducted, operated, or maintained without license
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

APPENDIX

CLASS V MISDEMEANOR

Maximum—no imprisonment, one hundred dollars' fine

Minimum—none

2-219	Exhibit or conduct indecent shows or dances or engage in any 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
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

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CLASS V MISDEMEANOR

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 21
28-1427	Person under the age of 21 misrepresenting age to obtain cigars, tobacco, cigarettes, cigarette material, 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
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
32-1524	Electioneering within 200 feet of secure ballot drop-box
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

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CLASS V MISDEMEANOR

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
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

APPENDIX

CLASS V MISDEMEANOR

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
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

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CLASS V MISDEMEANOR

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
71-1571	Installation of 4 or more showers or bathtubs without scald prevention device
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 administrator and board of trustees or retirement board under the Class V School Employees Retirement Act
79-1084	Secretary of Class III school board failing or neglecting to publish budget documents

APPENDIX

CLASS V MISDEMEANOR

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
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
81-15,277	Violation of laws relating to recreation camps
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

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

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- UNCLASSIFIED MISDEMEANORS**, see section 28-107
–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
- 18-1914 Violation of plumbing ordinances or plumbing license requirements
–fine of not more than five hundred dollars and not less than fifty 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

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- UNCLASSIFIED MISDEMEANORS**, see section 28-107
- fine of not more than one hundred dollars
 - 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
 - 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
 - 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

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UNCLASSIFIED MISDEMEANORS, see section 28-107

- 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
Behavior Analyst Practice Act	38-4401
Behavioral Intervention Training and Teacher Support Act	79-3601
Certified Community Behavioral Health Clinic Act	71-832
Child Care Tax Credit Act	77-7201
College Pathway Program Act	79-3701
Critical Infrastructure Utility Worker Protection Act	81-829
Door to College Scholarship Act	85-3201
E-15 Access Standard Act	66-2208
Excellence in Teaching Act	85-3101
Extraordinary Increase in Special Education Expenditures Act	79-10,148
First Responder Recruitment and Retention Act	85-2601
Good Life Transformational Projects Act	77-4401
Insurance Regulatory Sandbox Act	44-9401
Let Them Grow Act	71-7301
Nebraska Biodiesel Tax Credit Act	77-7009
Nebraska Teacher Recruitment and Retention Act	79-8,111
Nuclear and Hydrogen Development Act	66-2302
One-Call Notification System Act	76-2301
Opportunity Scholarships Act	77-7101
Overdose Fatality Review Teams Act	71-3422
Pet Insurance Act	44-6501
Preborn Child Protection Act	71-6912
Public Water and Natural Resources Project Contracting Act	61-501
Rural Communications Sustainability Act	86-1501
School District Property Tax Limitation Act	79-3401

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2023 Session Laws of Nebraska, First Session
Showing LB section number to statute section number

	2023 First Session	2023 Supplement	2023 First Session	2023 Supplement	2023 First Session	2023 Supplement	
LB 50	§ 1	24-1302		48	83-1,110.05	12	8-602
	2	24-1008		49	83-1,111	13	8-1101
	3	27-803		50	83-1,111.01	14	8-1101.01
	4	27-902		51	83-1,114	15	8-1704
	5	28-470		52	83-1,122.01	16	8-1707
	6	28-518		53	83-1,125.01	17	8-2724
	7	29-2221		54	83-1,127	18	8-2903
	8	29-2252		55	83-1,122.02	19	8-3002
	9	29-2261		59	83-1,135	20	8-3003
	10	29-2262		57	83-1,135.02	21	8-3004
	11	29-2263		58	83-919	22	8-3005
	12	29-2269		59	Omitted	23	8-3007
	13	29-2244	LB 50A		Omitted	24	8-3008
	14	29-2245	LB 77	§ 1	13-330	25	8-3011
	15	29-2281		2	14-102	26	8-3012
	16	29-2315.02		3	15-255	27	8-3013
	17	29-2318		4	16-227	28	8-3014
	18	29-3001		5	17-556	29	8-3015
	19	50-433		6	28-101	30	8-3016
	20	38-2136		7	28-1201	31	8-3017
	21	43-279		8	28-1202	32	8-3018
	22	43-280		9	28-1202.01	33	8-3019
	23	43-2,108		10	28-1202.02	34	8-3020
	24	43-1311.03		11	28-1202.03	35	8-3021
	25	43-4502		12	28-1202.04	36	8-3022
	26	43-4504		13	28-1205	37	8-3023
	27	43-4505		14	28-1351	38	8-3025
	28	43-4508		15	28-1354	39	8-3026
	29	43-4510		16	69-2429	40	8-3028
	30	43-4511.01		17	69-2435	41	8-3030
	31	43-4514		18	69-2436	42	10-110
	32	50-434		19	69-2439	43	10-402
	33	69-2426		20	69-2442	44	10-403
	34	69-2432		21	69-2443	45	10-405
	35	71-1902		22	69-2445	46	10-507
	36	71-5661		23	Omitted	47	10-711
	37	71-5662	LB 92	§ 1	8-101.03	48	10-804
	38	71-5663		2	8-102	49	13-509
	39	71-5665		3	8-115	50	21-17,115
	40	71-5666		4	8-135	51	44-319.02
	41	71-5668		5	8-141	52	44-319.03
	42	71-5669.01		6	8-143.01	53	44-319.06
	43	81-1850		7	8-157.01	54	44-785
	44	83-109		8	8-183.04	55	44-7,102
	45	83-173		9	8-1,140	56	44-1993
	46	83-1,100.02		10	8-318	57	44-2824
	47	83-1,110		11	8-355	58	44-2825

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	59	44-2827		10	79-926	50	66-4,100
	60	44-2831.01		11	81-2014	51	75-363
	61	44-2832		12	81-2034	52	75-364
	62	44-2833		13	84-1301	53	75-366
	63	44-3308		14	84-1325	54	75-369.03
	64	44-4054		15	Omitted	55	75-392
	65	44-5140		16	Omitted	56	75-393
	66	44-5141		17	Omitted	57	Omitted
	67	45-191.01		18	Omitted	58	Omitted
	68	45-191.04	LB 138	§ 1	3-107	59	Omitted
	69	45-735		2	13-1205	60	Omitted
	70	45-1002		3	29-431		Omitted
	71	45-1003		4	39-847	LB 138A	
	72	45-1006		5	39-1348	LB 157	§ 1
	73	58-201		6	39-1351		25-1810
	74	58-273		7	60-107		2
	75	81-1212		8	60-119.01		25-323
	76	59-1722		9	60-169		3
	77	69-2103		10	60-302.01		25-331
	78	69-2104		11	60-336.01		4
	79	69-2112		12	60-386		25-21,273
	80	76-1007		13	60-3,113.04		5
	81	77-6801		14	60-3,193.01		29-4317
	82	77-6844		15	60-462		6
	83	77-6845		16	60-462.01		28-405
	84	77-6846		17	60-479.01		7
	85	4A-108 UCC		18	60-484.05		28-416
	86	44-790.01		19	60-484.06		8
	87	44-714		20	60-484.07		30-24,125
	88	44-9401		21	60-4,111.01		9
	89	44-9402		22	60-4,115		30-2626
	90	44-9403		23	60-4,120		10
	91	44-9404		24	60-4,122		81-3141
	92	44-9405		25	60-4,132		11
	93	44-9406		26	60-4,134		42-903
	94	44-9407		27	60-4,138		12
	95	44-9408		28	60-4,142		42-924
	96	44-9409		29	60-4,144		13
	97	44-9410		30	60-4,147.02		43-286
	98	Omitted		31	60-4,168		14
	99	Omitted		32	60-4,172		52-401
	100	Omitted		33	60-4,181		15
	101	Omitted		34	60-501		81-1821
	102	Omitted		35	60-601		16
	103	Omitted		36	60-605		83-4,114
	104	Omitted		37	60-611		17
	105	Omitted		38	60-614.02		83-918
	106	Omitted		39	60-614.03		18
				40	60-614.04		Omitted
LB 92A				41	60-618.03		19
LB 103	§ 1	23-2301		42	60-628.01		Omitted
	2	23-2323.01		43	60-640		6
	3	23-2332		44	60-678		48-145
	4	23-2332.01		45	60-678		8
	5	24-701		46	60-6,265		48-163
	6	24-710.01		47	60-6,279		9
	7	24-710.04		48	60-6,282		48-164
	8	79-902		49	60-2705		10
	9	79-920			60-2909.01		48-174
							11
							48-622.02
							12
							48-649.03
							13
							48-650
							14
							48-652
							15
							48-2103
							16
							48-2107
							17
							49-506
							18
							71-7104
							19
							81-1228
							20
							81-1229
							21
							81-1231
							22
							Omitted
							23
							Omitted

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		24 Omitted		56 38-2891	114	71-8244
		25 Omitted		57 68-901	115	71-8245
		26 Omitted		58 68-9,102	116	71-8247
LB 227	§	1 38-4401		59 68-9,103	117	Omitted
		2 38-4402		60 68-9,104	118	Omitted
		3 38-4403		61 68-911	119	Omitted
		4 38-4404		62 68-1006.01	120	Omitted
		5 38-4405		63 68-1009	121	Omitted
		6 38-4406		64 68-1010	122	Omitted
		7 38-4407		65 68-1017.02		Omitted
		8 38-4408		66 68-1206	LB 227A	
		9 38-4409		67 68-1512	LB 243	§ 1 79-3401
		10 38-4410		68 68-1724		2 79-3402
		11 38-4411		69 71-222		3 79-3403
		12 38-4412		70 71-401		4 79-3404
		13 38-4413		71 71-403		5 79-3405
		14 38-4414		72 71-424.04		6 79-3406
		15 38-101		73 71-417		7 79-3407
		16 38-1,148		74 71-475		8 79-3408
		17 38-121		75 71-1797		9 77-1632
		18 38-129.02		76 71-1798		10 77-1633
		19 38-131		77 71-2461.01		11 77-1736.06
		20 38-167		78 71-2479		12 77-3442
		21 38-186		79 71-3422		13 77-4212
		22 38-1,125		80 71-3423		14 77-5003
		23 38-1416		81 71-3424		15 77-5004
		24 38-1801		82 71-3425		16 77-5015.02
		25 38-1802		83 71-3426		17 77-6702
		26 38-1803		84 71-3427		18 77-6703
		27 38-1803.01		85 71-3428		19 77-6706
		28 38-1806		86 71-3429		20 85-1517
		29 38-1807		87 71-3430		21 85-1543
		30 38-1807.01		88 71-3431		22 85-2231
		31 38-1808		89 71-3432		23 85-2238
		32 38-1808.01		90 71-3433		24 Omitted
		33 38-1809		91 71-3434		25 Omitted
		34 38-1809.01		92 71-3435		26 Omitted
		35 38-1809.02		93 71-3436		27 Omitted
		36 38-1810.01		94 71-3437		28 Omitted
		37 38-1810.02		95 71-3404		29 Omitted
		38 38-1810.03		96 71-3405	LB 243A	Omitted
		39 38-1810.04		97 71-3407	LB 254	§ 1 50-117
		40 38-1810.05		98 71-3408		2 50-114
		41 38-1810		99 71-3409		3 50-402
		42 38-1811		100 71-3410		4 50-702
		43 38-1812		101 71-8202		5 50-1209
		44 38-1813		102 71-8228		6 79-1312
		45 38-1817		103 71-8230		7 79-1313
		46 38-1818		104 71-8231		8 79-1316
		47 38-1819		105 71-8234		9 79-1321
		48 38-1820		106 71-8235		10 Omitted
		49 38-1821		107 71-8236		11 Omitted
		50 38-1822		108 71-8237		12 Omitted
		51 38-1816		109 71-8239	LB 254A	Omitted
		52 38-2801		110 71-8240	LB 276	§ 1 71-801
		53 38-28,102		111 71-8241		2 71-832
		54 38-2852		112 71-8242		3 71-833
		55 38-2867.01		113 71-8243		4 71-834
						5 71-835

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		6 71-836		15 32-943		45 81-12,225
		7 71-837		16 32-953		46 81-12,238
		8 Omitted		17 32-957		47 81-12,240
		9 Omitted		18 32-1002.01		48 81-12,241
LB 276A		Omitted		19 32-1027		49 81-12,243
LB 282		Omitted		20 60-4,115		50 81-12,244
LB 296	§	1 44-6501		21 60-4,119		51 81-12,241.01
		2 44-6502		22 60-4,120		52 84-612
		3 44-6503		23 71-612		53 72-819
		4 44-6504		24 Omitted		54 72-820
		5 44-6505		25 Omitted		55 Omitted
		6 44-6506		26 Omitted		56 Omitted
		7 44-6507		27 Omitted		57 Omitted
		8 44-6508	LB 514A	Omitted		58 Omitted
		9 44-6509	LB 531	§	1 19-1201	59 Omitted
		10 44-6510		2 19-1202	LB 531A	Omitted
		11 44-312		3 19-1203	LB 562	§
		12 71-20,122		4 19-1204		1 66-2208
		13 Omitted		5 16-312		2 66-2209
		14 Omitted		6 16-404		3 66-2210
LB 298	§	1 79-11,157.01		7 16-503		4 66-2211
		2 79-2,158		8 17-110		5 66-2212
		3 79-2,159		9 17-614		6 66-2213
		4 79-1505		10 18-2101		7 66-2214
		5 79-101		11 18-2101.02		8 66-2215
		6 79-816.01		12 18-2105		9 66-2216
		7 Omitted		13 18-2109		10 66-2217
LB 298A		Omitted		14 18-2117.01		11 66-2218
LB 376	§	1 53-101		15 18-2117.02		12 58-242
		2 53-103		16 18-2142.05		13 77-5203
		3 53-103.50		17 18-2147		14 77-5205
		4 53-103.51		18 18-2156		15 77-5208
		5 53-165.01		19 18-2157		16 77-5209
		6 53-165.02		20 18-2155		17 77-5209.01
		7 53-165.03		21 18-2709		18 77-5211
		8 53-117.06		22 19-5504		19 77-5213
		9 53-123.11		23 19-5505		20 77-7002
		10 53-123.16		24 58-209.01		21 77-7003
		11 53-124.11		25 61-305		22 77-7004
		12 53-168		26 71-6401		23 77-7007
		13 53-169		27 71-6408		24 81-2,239
		14 53-171		28 72-1001		25 81-2,240
		15 Omitted		29 76-3602		26 81-2,247
		16 Omitted		30 76-3603		27 81-2,278.01
LB 514	§	1 32-101		31 76-3604		28 81-2,279
		2 32-103		32 81-1237		29 81-2,278
		3 32-123		33 81-1238	LB 562A	Omitted
		4 32-202		34 81-1239	LB 565	§
		5 32-202.01		35 81-1240		1 61-501
		6 32-308		36 81-1243		2 61-502
		7 32-318.01		37 81-12,109		3 61-503
		8 32-914		38 81-12,110		4 61-504
		9 32-915		39 81-12,203		5 61-505
		10 32-915.03		40 81-12,211		6 61-506
		11 32-912.02		41 81-12,218		7 61-507
		12 32-912.01		42 81-12,221		8 61-508
		13 32-941		43 81-12,222		9 61-509
		14 32-942		44 81-12,223		10 61-510
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	12	61-512		19	71-7306	6	79-3605
	13	61-513		20	71-7307	7	79-3606
	14	61-514		21	Omitted	8	79-3701
	15	61-515		22	Omitted	9	79-3702
	16	61-516		23	Omitted	10	79-3703
	17	61-517		24	Omitted	11	79-3704
	18	61-518			Omitted	12	79-3705
	19	61-519	LB 583	§ 1	79-1001	13	85-3101
	20	61-520		2	79-1009	14	85-3102
	21	18-2441		3	79-1006	15	85-3103
	22	37-104		4	79-1017.01	16	85-3104
	23	37-407		5	79-1022	17	85-3105
	24	37-447		6	79-1022.02	18	85-3106
	25	37-448		7	79-1023	19	85-3107
	26	37-449		8	79-1027	20	85-3108
	27	37-451		9	79-1031.01	21	85-3109
	28	37-453		10	79-1031.02	22	85-3110
	29	37-457		11	79-1142	23	85-3111
	30	37-492		12	Omitted	24	85-3112
	31	37-559		13	Omitted	25	85-3113
	32	37-708	LB 583A		Omitted	26	85-3114
	33	57-904	LB 683	§ 1	39-2805	27	85-3115
	34	66-2301		2	66-4,100	28	85-3201
	35	66-2302		3	81-702	29	85-3202
	36	66-2303		4	76-2301	30	85-3203
	37	66-2304		5	76-2303	31	85-3204
	38	66-2305		6	76-2305.01	32	85-3205
	39	66-2306		7	76-2323	33	85-3206
	40	66-2307		8	76-2333	34	85-3207
	41	66-2308		9	76-2325	35	85-3208
	42	70-619		10	76-2334	36	85-3209
	43	70-1001		11	81-502.03	37	85-3210
	44	70-1001.01		12	86-1501	38	85-3211
	45	70-1025		13	86-1502	39	79-10,148
	46	81-15,160		14	86-1503	40	79-10,149
	47	Omitted		15	86-1504	41	79-10,150
	48	Omitted		16	86-1505	42	79-10,151
	49	Omitted		17	86-1506	43	79-8,111
	50	Omitted		18	86-1507	44	79-8,112
LB 565A		Omitted		19	86-125	45	79-8,113
LB 574	§ 1	71-6912		20	86-324	46	79-8,114
	2	71-6913		21	86-328	47	79-8,115
	3	71-6914		22	86-331	48	79-8,116
	4	71-6915		23	86-333	49	79-8,117
	5	71-6916		24	86-1103	50	79-8,118
	6	71-6917		25	86-1241	51	79-816
	7	38-178		26	86-1304	52	9-812
	8	38-179		27	86-1309	53	9-836.01
	9	38-192		28	86-1312	54	79-101
	10	38-193		29	Omitted	55	79-238
	11	38-196		30	Omitted	56	79-239
	12	38-2021		31	Omitted	57	79-244
	13	38-2894	LB 683A		Omitted	58	79-254
	14	71-7301	LB 705	§ 1	79-3501	59	79-262.01
	15	71-7302		2	79-3601	60	79-265.01
	16	71-7303		3	79-3602	61	79-265.02
	17	71-7304		4	79-3603	62	79-256
	18	71-7305		5	79-3604	63	79-263

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	66	79-267		124	79-3108	44	39-2704
	67	79-268		125	79-3109	45	66-4,100
	68	79-269		126	79-297	46	77-1344
	69	79-272		127	Omitted	47	77-1347
	70	79-276		128	Omitted	48	77-1403
	71	79-278		129	Omitted	49	77-1631
	72	79-282		130	Omitted	50	77-1633
	73	79-283		131	Omitted	51	77-1701
	74	79-287		132	Omitted	52	77-1802
	75	79-2,136		133	Omitted	53	77-1818
	76	79-2,144		134	Omitted	54	77-1824
	77	79-2,146		135	Omitted	55	77-1837
	78	79-703		136	Omitted	56	77-1838
	79	79-729		137	Omitted	57	77-2015
	80	79-734	LB 705A		Omitted	58	77-2701
	81	79-760.01	LB 727	§ 1	77-7009	59	77-2701.02
	82	79-806		2	77-7010	60	77-2701.04
	83	79-807		3	77-7011	61	77-2701.41
	84	79-808		4	77-7012	62	77-2701.56
	85	79-809		5	77-7013	63	77-2704.12
	86	79-8,143		6	77-7014	64	77-2704.15
	87	79-8,145.01		7	77-7015	65	77-2704.36
	88	79-8,145		8	77-7016	66	77-2706.02
	89	79-1021		9	77-4401	67	77-2711
	90	79-1054		10	77-4402	68	77-2713
	91	79-1104.02		11	77-4403	69	77-2715.07
	92	79-1142		12	77-4404	70	77-2716
	93	79-11,160		13	77-4405	71	77-2717
	94	79-1337		14	77-4406	72	77-2734.03
	95	79-2110		15	77-4407	73	77-27,132
	96	79-2304		16	13-2602	74	77-27,187.02
	97	79-2308		17	13-2603	75	77-27,188
	98	79-2506		18	13-2604	76	77-27,223
	99	79-2510		19	13-2605	77	77-27,241
	100	79-3106		20	13-2609	78	77-2902
	101	79-3304		21	13-2610	79	77-2903
	102	79-3305		22	13-2611	80	77-2904
	103	81-145		23	13-2612	81	77-2905
	104	81-161.04		24	13-2706	82	77-2910
	105	81-1118		25	13-3102	83	77-2912
	106	81-1118.02		26	13-3103	84	77-3506
	107	84-304		27	13-3104	85	77-3512
	108	84-612		28	13-3108	86	77-3513
	109	85-102		29	39-2202	87	77-3522
	110	85-328		30	39-2203.01	88	77-4001
	111	85-502.01		31	39-2213.01	89	77-4002
	112	85-601		32	39-2205	90	77-4003.01
	113	85-602		33	39-2209	91	77-4003.02
	114	85-603		34	39-2211	92	77-4007
	115	85-604		35	39-2212	93	77-4008
	116	85-605		36	39-2213	94	77-4025
	117	85-1412		37	39-2215	95	77-5803
	118	85-1906		38	39-2215.02	96	77-5806
	119	85-1907		39	39-2216	97	77-5808
	120	85-1920		40	39-2222	98	77-6702
	121	85-2009		41	39-2223	99	77-6818

CROSS REFERENCE TABLE

2023 First Session	2023 Supplement	2023 First Session	2023 Supplement	2023 First Session	2023 Supplement
	100	81-703		15	77-2734.03
	101	81-1229		16	77-2775
	102	81-12,182		17	77-3604
	103	81-12,245		18	77-3605
	104	82-334		19	77-3606
	105	82-335		20	Omitted
	106	85-1802		21	Omitted
	107	85-2601		22	Omitted
	108	85-2602	LB 754A		Omitted
	109	85-2603	LB 775	§ 1	2-1205
	110	85-2603.01		2	9-204
	111	85-2604		3	9-204.04
	112	85-2605		4	9-601
	113	85-2606		5	9-603
	114	Omitted		6	9-604.02
	115	Omitted		7	9-606
	116	Omitted		8	9-607
	117	Omitted		9	9-646.01
	118	Omitted		10	9-651
	119	Omitted		11	9-651.01
	120	Omitted		12	9-1103
	121	Omitted		13	9-1106
	122	Omitted		14	9-1110
LB 727A		Omitted		15	81-3717
LB 753	§ 1	77-7101		16	81-3720
	2	77-7102		17	Omitted
	3	77-7103	LB 799	§ 1	24-201.01
	4	77-7104		2	24-209
	5	77-7105		3	24-211
	6	77-7106		4	24-212
	7	77-7107		5	24-503
	8	77-7108		6	24-1109
	9	77-7109		7	48-152
	10	77-7110		8	48-153
	11	77-7111		9	49-506
	12	77-7112		10	49-617
	13	77-7113		11	49-702
	14	77-2715.07		12	85-177
	15	77-2717		13	Omitted
	16	77-2734.03		14	Omitted
	17	Omitted		15	Omitted
	18	Omitted		16	Omitted
	19	Omitted		17	Omitted
LB 753A		Omitted	LB 799A		Omitted
LB 754	§ 1	77-7201	LB 813		Omitted
	2	77-7202	LB 814		Omitted
	3	77-7203	LB 815		Omitted
	4	77-7204	LB 816		Omitted
	5	77-7205	LB 818	§ 1	Omitted
	6	71-1962		2	Omitted
	7	77-2715.03		3	Omitted
	8	77-2715.07		4	Omitted
	9	77-2716		5	Omitted
	10	77-2717		6	Omitted
	11	77-2727		7	9-1,101
	12	77-2730		8	37-324
	13	77-2734.01		9	37-1804
	14	77-2734.02		10	39-2805
				11	46-1,164
				12	61-218
				13	61-224
				14	61-305
				15	71-7611
				16	72-729.01
				17	72-2201
				18	72-2211
				19	72-2216
				20	75-109.01
				21	77-913
				22	79-1021
				23	80-401
				24	81-12,147
				25	81-12,148
				26	81-12,220
				27	81-12,221
				28	81-12,222
				29	81-12,223
				30	81-12,225
				31	81-12,241
				32	81-12,243
				33	81-15,174
				34	84-612
				35	86-163
				36	86-324
				37	81-3142
				38	81-3143
				39	81-1213.02
				40	71-5328
				41	81-1213.03
				42	81-1213.04
				43	81-1213.05
				44	Omitted
				45	Omitted
				46	Omitted

APPENDIX

APPENDIX

CROSS REFERENCE TABLE

Legislative Bills, One Hundred Eighth Legislature
First Session, 2023

Showing the date each act went into effect.
Convened January 3, 2023, and adjourned June 1, 2023.

LB No.	Effective Date	LB No.	Effective Date
50	September 2, 2023		41, 42, 43, 44, 45, 46, 47,
50A	September 2, 2023		48, 49, 50, 51, 52, 53, 54,
77	September 2, 2023		55, 56, and 59 of this act
92	Sections 54 and 103 of this act become operative on January 1, 2024. Sections 64 and 104 of this act become operative on April 30, 2024. Sections 57, 58, 59, 60, 61, 62, and 105 of this act become operative on January 1, 2025. Sections 42, 43, 44, 45, 46, 47, 48, 49, 51, 52, 53, 55, 56, 63, 65, 66, 73, 74, 75, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, and 102 of this act become operative on September 2, 2023. The other sections of this act become operative on June 7, 2023.		become operative on September 2, 2023. Sections 57 and 60 of this act become operative on June 2, 2023.
		138A	June 2, 2023
		157	Sections 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 21, and 22 of this act become operative on September 2, 2023. The other sections of this act become operative on June 7, 2023.
		191	Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 25 of this act become operative on September 2, 2023. The other sections of this act become operative on May 27, 2023.
92A	September 2, 2023		
103	Sections 3, 4, and 16 of this act become operative on September 2, 2023. The other sections of this act become operative on May 2, 2023.		
		227	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 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, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 95, 96, 97, 98, 99,
138	Sections 22 and 58 of this act become operative on July 1, 2023. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40,		

APPENDIX

LB No.	Effective Date	LB No.	Effective Date
	100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 119, and 121 of this act become operative on September 2, 2023. The other sections of this act become operative on June 7, 2023.		of this act become operative on June 7, 2023.
227A	June 7, 2023	531A	June 7, 2023
243	Sections 14, 15, 16, and 26 of this act become operative on July 1, 2023. Sections 11, 12, 13, 17, 18, 19, 20, 21, 22, 23, and 27 of this act become operative on September 2, 2023. The other sections of this act become operative on June 1, 2023.	562	September 2, 2023
243A	June 1, 2023	562A	September 2, 2023
254	May 27, 2023	565	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 42, 43, 44, 45, 46, and 48 of this act become operative on September 2, 2023. The other sections of this act become operative on May 27, 2023.
254A	May 27, 2023	565A	May 27, 2023
276	May 26, 2023	574	Sections 14, 15, 16, 17, 18, 19, and 20 of this act become operative on October 1, 2023. The other sections of this act become operative on May 23, 2023.
276A	May 26, 2023	583	June 1, 2023
282	May 23, 2023	583A	July 1, 2023
296	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of this act become operative on January 1, 2024. The other sections of this act become operative on September 2, 2023.		(operative date)
298	September 2, 2023	683	May 27, 2023
298A	September 2, 2023	683A	May 27, 2023
376	April 22, 2023	705	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 52, 53, 58, 59, 78, 90, 91, 94, 98, 99, 100, 107, 111, 117, 120, 121, 130, and 134 of this act become operative on July 1, 2023. Sections 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 93, 131, and 135 of this act become operative on July 1, 2024. Sections 54, 55, 56, 57, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 95, 101, 102, 103, 104, 105,
514	Sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 25 of this act become operative on April 1, 2024. The other sections of this act become operative on June 2, 2023.		
514A	June 2, 2023		
531	Sections 21, 26, 27, 32, and 57 of this act become operative on September 2, 2023. The other sections		

CROSS REFERENCE TABLE

LB No.	Effective Date	LB No.	Effective Date
	106, 108, 109, 110, 112, 113, 114, 115, 116, 118, 119, 123, 124, 125, 126, 132, and 136 of this act become operative on September 2, 2023. The other sections of this act become operative on June 2, 2023.		1 and 15 of this act become operative on July 1, 2023. Sections 2, 3, 4, 5, 6, 9, 10, 11, 12, and 16 of this act become operative on September 2, 2023. The other sections of this act become operative on May 23, 2023.
705A	June 2, 2023	799A	Sections 6 and 8 of this act become operative on July 1, 2023. The other sections of this act become operative on May 23, 2023.
727	Sections 64 and 118 of this act become operative on July 1, 2023. Sections 63, 65, and 120 of this act become operative on October 1, 2023. Sections 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, and 121 of this act become operative on January 1, 2024. Sections 1, 2, 3, 4, 5, 6, 7, 8, 48, 51, 52, 53, 54, 55, 56, 69, 70, 71, 72, 74, 75, 77, 78, 79, 80, 81, 82, 83, 95, 96, 97, 98, 102, 106, 107, 108, 109, 110, 111, 112, 113, and 119 of this act become operative on September 2, 2023. The other sections of this act become operative on June 7, 2023.	813	May 23, 2023
		814	July 1, 2023 (operative date)
		815	July 1, 2023 (operative date)
		816	July 1, 2023 (operative date)
		818	May 25, 2023
727A	June 7, 2023		
753	This act becomes operative for all taxable years beginning or deemed to begin on or after January 1, 2024, under the Internal Revenue Code of 1986, as amended.		
753A	September 2, 2023		
754	June 1, 2023		
754A	June 1, 2023		
775	September 2, 2023		
799	Sections 7, 8, and 14 of this act become operative on June 1, 2023. Sections		