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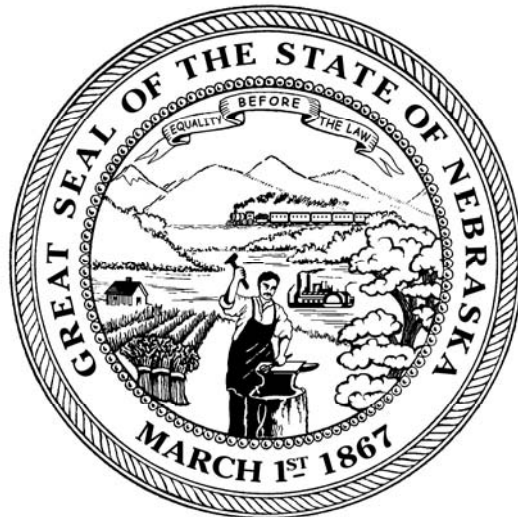


# REVISED STATUTES OF NEBRASKA

## 2011 SUPPLEMENT

EDITED, ANNOTATED, AND PUBLISHED  
BY THE  
REVISOR OF STATUTES

VOLUME 2  
CHAPTERS 61 TO UCC, INCLUSIVE



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For the benefit of the  
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## CHAPTER 61

### NATURAL RESOURCES

Article.

2. Department of Natural Resources. 61-218 to 61-221.

#### 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.
- 61-220. State Treasurer; 2012 transfer to Water Resources Cash Fund.
- 61-221. State Treasurer; 2013 transfer to Water Resources Cash Fund.

**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, and (e) allocated pursuant to section 81-15,175.

(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 FY2018-19.

(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 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 if the criteria established in subsection (4) of section 81-15,175 are achieved.

(8) The department shall establish a subaccount within the Water Resources Cash Fund for the accounting of all money received as a grant from the Nebraska Environmental Trust Fund as the result of an application made pursuant to subsection (7) of this section. At the end of each calendar month, the department shall calculate the amount of interest earnings accruing to the subaccount and shall notify the State Treasurer who shall then transfer a like amount from the Water Resources Cash Fund to the Nebraska Environmental Trust Fund.

**Source:** Laws 2007, LB701, § 25; Laws 2009, First Spec. Sess., LB3, § 39; Laws 2010, LB689, § 1; Laws 2010, LB993, § 1; Laws 2011, LB229, § 1.

Effective date May 18, 2011.

**Cross References**

**Nebraska Capital Expansion Act**, see section 72-1269.

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

**61-220 State Treasurer; 2012 transfer to Water Resources Cash Fund.**

The State Treasurer shall transfer \$600,000 from the General Fund to the Water Resources Cash Fund on or before June 30, 2012, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services, pursuant to section 61-218.

**Source:** Laws 2011, LB229, § 4.

Effective date May 18, 2011.

**61-221 State Treasurer; 2013 transfer to Water Resources Cash Fund.**

The State Treasurer shall transfer \$600,000 from the General Fund to the Water Resources Cash Fund on or before June 30, 2013, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services, pursuant to section 61-218.

**Source:** Laws 2011, LB229, § 5.

Effective date May 18, 2011.





## CHAPTER 64

### NOTARIES PUBLIC

Article.

1. General Provisions.
  - (a) Appointment and Powers. 64-113.

#### ARTICLE 1

##### GENERAL PROVISIONS

###### (a) APPOINTMENT AND POWERS

Section

64-113. Removal; grounds; procedure; penalty.

###### (a) APPOINTMENT AND POWERS

###### **64-113 Removal; grounds; procedure; penalty.**

(1) Whenever charges of malfeasance in office are preferred to the Secretary of State against any notary public in this state, or whenever the Secretary of State has reasonable cause to believe any notary public in this state is guilty of acts of malfeasance in office, the Secretary of State may appoint any disinterested person, not related by consanguinity to either the notary public or person preferring the charges, and authorized by law to take testimony of witnesses by deposition, to notify such notary public to appear before him or her on a day and at an hour certain, after at least ten days from the day of service of such notice. Such appointee may summon witnesses, in the manner provided by section 64-108, to appear at the time specified in the notice, and he or she may take the testimony of such witnesses in writing, in the same manner as is by law provided for taking depositions, and certify the same to the Secretary of State. The notary public may appear, at such time and place, and cross-examine witnesses and produce witnesses in his or her behalf, which cross-examination and testimony shall be likewise certified to the Secretary of State. Upon the receipt of such examination, duly certified in the manner prescribed for taking depositions to be used in suits in the district courts of this state, the Secretary of State shall examine the same, and if therefrom he or she is satisfied that the charges are substantially proved, he or she may remove the person charged from the office of notary public or temporarily revoke such person's commission. Within fifteen days after such removal or revocation and notice thereof, such notary public shall deposit, with the Secretary of State, the commission as notary public and notarial seal. The commission shall be canceled or temporarily revoked by the Secretary of State. A person so removed from office shall be forever disqualified from holding the office of notary public. A person whose commission is temporarily revoked shall be returned his or her commission and seal upon completion of the revocation period and passing the examination described in section 64-101.01. The fees for taking such testimony shall be paid by the state at the same rate as fees for taking depositions by notaries public. The failure of the notary public to deposit his or her commission and seal with

the Secretary of State as required by this section shall subject him or her to a penalty of one thousand dollars, to be recovered in the name of the state.

(2) For purposes of this section, malfeasance in office means, while serving as a notary public, (a) failure to follow the requirements and procedures for notarial acts provided for in Chapter 64, articles 1 and 2, (b) violating the confidentiality provisions of section 71-6911, or (c) being convicted of a felony or other crime involving fraud or dishonesty.

**Source:** Laws 1869, § 14, p. 25; G.S.1873, p. 497; R.S.1913, § 5529; C.S.1922, § 4825; C.S.1929, § 64-113; R.S.1943, § 64-113; Laws 1945, c. 145, § 10, p. 493; Laws 1967, c. 396, § 8, p. 1244; Laws 2004, LB 315, § 11; Laws 2011, LB690, § 2.  
Effective date August 27, 2011.

## CHAPTER 66

### OILS, FUELS, AND ENERGY

Article.

4. Motor Vehicle Fuel Tax. 66-4,100.
6. Diesel, Alternative, and Compressed Fuel Taxes.
  - (c) Alternative Fuel Tax. 66-684 to 66-695. Repealed.
7. Motor Fuel Tax Enforcement and Collection. 66-712, 66-738.
10. Energy Conservation.
  - (b) Low-Income Home Energy Conservation Act. 66-1012 to 66-1019.01.
13. Ethanol. 66-1345, 66-1345.04.
14. International Fuel Tax Agreement Act. 66-1405.
15. Petroleum Release Remedial Action. 66-1519.

#### 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 Roads and deposited into the Highway Restoration and Improvement Bond Fund as provided in subsection (6) 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 Roads 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 proportionate 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, and (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.

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. Effective date August 27, 2011.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

**ARTICLE 6**

**DIESEL, ALTERNATIVE, AND COMPRESSED FUEL TAXES**

(c) ALTERNATIVE FUEL TAX

Section

- 66-684. Repealed. Laws 2011, LB 289, § 41.
- 66-685. Repealed. Laws 2011, LB 289, § 41.
- 66-686. Repealed. Laws 2011, LB 289, § 41.
- 66-687. Repealed. Laws 2011, LB 289, § 41.
- 66-688. Repealed. Laws 2011, LB 289, § 41.
- 66-691. Repealed. Laws 2011, LB 289, § 41.
- 66-694. Repealed. Laws 2011, LB 289, § 41.
- 66-695. Repealed. Laws 2011, LB 289, § 41.

(c) ALTERNATIVE FUEL TAX

**66-684 Repealed. Laws 2011, LB 289, § 41.**

Operative date January 1, 2012.

**66-685 Repealed. Laws 2011, LB 289, § 41.**

Operative date January 1, 2012.

**66-686 Repealed. Laws 2011, LB 289, § 41.**

Operative date January 1, 2012.

**66-687 Repealed. Laws 2011, LB 289, § 41.**

Operative date January 1, 2012.

**66-688 Repealed. Laws 2011, LB 289, § 41.**

Operative date January 1, 2012.

**66-691 Repealed. Laws 2011, LB 289, § 41.**

Operative date January 1, 2012.

**66-694 Repealed. Laws 2011, LB 289, § 41.**

Operative date January 1, 2012.

**66-695 Repealed. Laws 2011, LB 289, § 41.**

Operative date January 1, 2012.

**ARTICLE 7****MOTOR FUEL TAX ENFORCEMENT AND COLLECTION**

## Section

66-712. Terms, defined.

66-738. Motor Fuel Tax Enforcement and Collection Division; created within Department of Revenue; powers and duties; funding; contracts authorized.

**66-712 Terms, defined.**

For purposes of the Compressed Fuel Tax Act, the International Fuel Tax Agreement Act, and sections 66-482 to 66-4,149, 66-501 to 66-531, and 66-712 to 66-737:

(1) Department means the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue, except that for purposes of enforcement of the International Fuel Tax Agreement Act, department means the Division of Motor Carrier Services of the Department of Motor Vehicles;

(2) Motor fuel means any fuel defined as motor vehicle fuel in section 66-482, any fuel defined as diesel fuel in section 66-482, and any fuel defined as compressed fuel in section 66-6,100;

(3) Motor fuel laws means the Compressed Fuel Tax Act and sections 66-482 to 66-4,149, 66-501 to 66-531, and 66-712 to 66-737, except that for purposes of enforcement of the International Fuel Tax Agreement Act, motor fuel laws means the provisions of the International Fuel Tax Agreement Act and sections 66-712 to 66-737; and

(4) Person means any individual, firm, partnership, limited liability company, company, agency, association, corporation, state, county, municipality, or other political subdivision. Whenever a fine, imprisonment, or both are prescribed or imposed in sections 66-712 to 66-737, the word person as applied to a

partnership, a limited liability company, or an association means the partners or members thereof.

**Source:** Laws 1991, LB 627, § 107; Laws 1993, LB 121, § 398; Laws 1994, LB 1160, § 95; Laws 1995, LB 182, § 52; Laws 1996, LB 1218, § 19; Laws 2004, LB 983, § 45; Laws 2011, LB289, § 35. Operative date January 1, 2012.

**Cross References**

**Compressed Fuel Tax Act**, see section 66-697.

**International Fuel Tax Agreement Act**, see section 66-1401.

**66-738 Motor Fuel Tax Enforcement and Collection Division; created within Department of Revenue; powers and duties; funding; contracts authorized.**

The Motor Fuel Tax Enforcement and Collection Division is hereby created within the Department of Revenue. The division shall be funded by a separate appropriation program within the department. All provisions of the Compressed Fuel Tax Act, the Petroleum Release Remedial Action Act, the State Aeronautics Department Act, and sections 66-482 to 66-4,149, 66-501 to 66-531, and 66-712 to 66-737, pertaining to the Department of Revenue, the Tax Commissioner, or the division, shall be entirely and separately undertaken and enforced by the division, except that the division may utilize services provided by other programs of the Department of Revenue in functional areas known on July 1, 1991, as the budget subprograms designated revenue operations and administration. Appropriations for the division that are used to fund costs allocated for such functional operations shall be expended by the division in an appropriate pro rata share and shall be subject to audit by the Auditor of Public Accounts, at such time as he or she determines necessary, which audit shall be provided to the budget division of the Department of Administrative Services and the Legislative Fiscal Analyst by October 1 of the year under audit. Audit information useful to other divisions of the Department of Revenue may be shared by the Motor Fuel Tax Enforcement and Collection Division with the other divisions of the department and the Division of Motor Carrier Services of the Department of Motor Vehicles, but audits shall not be considered as a functional operation for purposes of this section. Except for staff performing in functional areas, staff funded from the separate appropriation program shall only be utilized to carry out the provisions of such acts and sections. The auditors and field investigators in the Motor Fuel Tax Enforcement and Collection Division shall be adequately trained for the purposes of motor fuel tax enforcement and collection. The Tax Commissioner shall hire for or assign to the division sufficient staff to carry out the responsibility of the division for the enforcement of the motor fuel laws.

Funds appropriated to the division may also be used to contract with other public agencies or private entities to aid in the issuance of motor fuel delivery permit numbers as provided in subsection (2) of section 66-503, and such contracted funds shall only be used for such purpose. The amount of any contracts entered into pursuant to this section shall be appropriated and accounted for in a separate budget subprogram of the division.

**Source:** Laws 1991, LB 627, § 141; Laws 1994, LB 1160, § 109; Laws 1996, LB 1121, § 11; Laws 1996, LB 1218, § 21; Laws 1999, LB 143, § 4; Laws 2011, LB289, § 36; Laws 2011, LB337, § 4.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB289, section 36, with LB337, section 4, to reflect all amendments.

**Note:** Changes made by LB337 became effective April 27, 2011. Changes made by LB289 became operative January 1, 2012.

**Cross References**

**Compressed Fuel Tax Act**, see section 66-697.

**Petroleum Release Remedial Action Act**, see section 66-1501.

**State Aeronautics Department Act**, see section 3-154.

**ARTICLE 10**

**ENERGY CONSERVATION**

(b) LOW-INCOME HOME ENERGY CONSERVATION ACT

Section

- 66-1012. Act, how cited.  
 66-1014. Terms, defined.  
 66-1015. Energy Conservation Improvement Fund; created; investment; department; duties.  
 66-1016. Program of eligible energy conservation grants; establishment and administration; certification of improvement; cost share.  
 66-1019.01. Act; termination date.

(b) LOW-INCOME HOME ENERGY CONSERVATION ACT

**66-1012 Act, how cited.**

Sections 66-1012 to 66-1019.01 shall be known and may be cited as the Low-Income Home Energy Conservation Act.

**Source:** Laws 2008, LB1001, § 1; Laws 2011, LB385, § 1.  
 Effective date April 27, 2011.  
 Termination date July 1, 2019.

**66-1014 Terms, defined.**

For purposes of the Low-Income Home Energy Conservation Act:

- (1) Department means the Department of Revenue;
- (2) Eligible energy conservation grant means a grant paid to an eligible person for an eligible energy conservation improvement;
- (3) Eligible energy conservation improvement means a device, a method, equipment, or material that reduces consumption of or increases efficiency in the use of electricity or natural gas for a residence owned by an eligible person, including, but not limited to, insulation and ventilation, storm or thermal doors or windows, awnings, caulking and weatherstripping, furnace efficiency modifications, thermostat or lighting controls, replacement or modification of lighting fixtures or bulbs to increase the energy efficiency of the home's lighting system, and systems to turn off or vary the delivery of energy;
- (4) Eligible entity means an entity providing funds pursuant to section 66-1015 and which is a public power district organized under Chapter 70, article 6, a rural public power district organized under Chapter 70, article 8, an electric cooperative corporation organized under the Electric Cooperative Corporation Act, a nonprofit corporation organized for the purpose of furnishing electric service, a joint entity organized under the Interlocal Cooperation Act, or a municipality;
- (5) Eligible person means any resident of Nebraska who owns his or her residence and whose household income is at or below one hundred fifty percent

of the federal poverty level, as determined in accordance with the Low-Income Home Energy Conservation Act; and

(6) Fiscal year means the state fiscal year which is the period July 1 to the following June 30.

**Source:** Laws 2008, LB1001, § 3; Laws 2011, LB385, § 2.  
Effective date April 27, 2011.  
Termination date July 1, 2019.

**Cross References**

**Electric Cooperative Corporation Act**, see section 70-701.

**Interlocal Cooperation Act**, see section 13-801.

**66-1015 Energy Conservation Improvement Fund; created; investment; department; duties.**

(1) The Energy Conservation Improvement Fund is created. There shall be a separate subaccount within the fund for each eligible entity remitting funds and administering a program of eligible energy conservation improvements. The fund shall be administered by the department. Funds shall be remitted by the department to the State Treasurer for deposit in the proper subaccount of the fund from funds remitted by the eligible entity and state matching funds as provided in subsection (2) of this section.

(2)(a) No later than September 1, 2012, and no later than September 1 of each even-numbered year thereafter, any eligible entity planning on administering a program of eligible energy conservation improvements shall notify the department of the amount the entity plans to remit pursuant to subdivision (2)(b) of this section for each of the next two fiscal years.

(b) Commencing July 1, 2014, any eligible entity may remit up to fifty thousand dollars per fiscal year for deposit in the subaccount of the fund for that eligible entity. The amount deposited shall be matched from the amount transferred by the state to the fund as provided in subsection (3) of this section and deposited in the subaccount of the eligible entity. Amounts for deposit shall be accepted on a first-come, first-served basis, and when a total of two hundred fifty thousand dollars of deposits from eligible entities has been received in a fiscal year, no further deposits shall be accepted. Any deposits received from eligible entities after the dollar limit has been reached shall be returned to the eligible entity. Any nonencumbered amount remaining in the fund at the end of the fiscal year shall be transferred to the General Fund.

(3) Commencing July 1, 2014, and each fiscal year thereafter, it is the intent of the Legislature to transfer two hundred fifty thousand dollars from the General Fund to the Energy Conservation Improvement Fund for the purposes of this section.

(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 2008, LB1001, § 4; Laws 2011, LB385, § 3.  
Effective date April 27, 2011.  
Termination date July 1, 2019.

**Cross References**

**Nebraska Capital Expansion Act**, see section 72-1269.

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



**66-1016 Program of eligible energy conservation grants; establishment and administration; certification of improvement; cost share.**

(1) An eligible entity that has remitted funds to the department as provided in section 66-1015 may establish and administer a program of eligible energy conservation grants.

(2) The program shall provide for an eligible energy conservation grant from the Energy Conservation Improvement Fund to an eligible person for installing an eligible energy conservation improvement upon certification by the eligible entity that it has approved an eligible energy conservation improvement for the residence of the eligible person. The eligible entity shall verify the purchase and installation of the eligible energy conservation improvement at the eligible person's residence.

(3) The eligible entity may require the eligible person to pay for a share of the cost of the eligible energy conservation improvement, not to exceed twenty percent of the total cost. The share of the cost to be paid by the eligible person may be recovered by the eligible entity in monthly installments after completion of the eligible energy conservation improvement by adding an amount to the eligible person's electrical bill.

(4) The eligible entity shall certify to the department the amount of money to be distributed from the applicable subaccount of the Energy Conservation Improvement Fund for payments of the energy conservation grants approved in subsection (2) of this section. Requests for distribution may be filed no more frequently than monthly. The department shall distribute money only to the eligible entity.

**Source:** Laws 2008, LB1001, § 5; Laws 2011, LB385, § 4.  
Effective date April 27, 2011.  
Termination date July 1, 2019.

**66-1019.01 Act; termination date.**

The Low-Income Home Energy Conservation Act terminates on July 1, 2019.

**Source:** Laws 2011, LB385, § 5.  
Effective date April 27, 2011.  
Termination date July 1, 2019.

**ARTICLE 13****ETHANOL**

Section  
66-1345. Ethanol Production Incentive Cash Fund; created; use; investment; transfers; duties.  
66-1345.04. Transfer to Ethanol Production Incentive Cash Fund; legislative intent.

**66-1345 Ethanol Production Incentive Cash Fund; created; use; investment; transfers; duties.**

(1) There is hereby created the Ethanol Production Incentive Cash Fund which shall be used by the board to pay the credits created in section 66-1344 to the extent provided in 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. The State Treasurer shall transfer to the Ethanol Production Incentive Cash

Fund such money as shall be (a) appropriated to the Ethanol Production Incentive Cash Fund by the Legislature, (b) given as gifts, bequests, grants, or other contributions to the Ethanol Production Incentive Cash Fund from public or private sources, (c) made available due to failure to fulfill conditional requirements pursuant to investment agreements entered into prior to April 30, 1992, (d) received as return on investment of the Ethanol Authority and Development Cash Fund, (e) credited to the Ethanol Production Incentive Cash Fund from the excise taxes imposed by section 66-1345.01 through December 31, 2012, (f) credited to the Ethanol Production Incentive Cash Fund pursuant to sections 66-489, 66-726, 66-1345.04, and 66-1519, and (g) directed to be transferred pursuant to section 84-612.

(2) The Department of Revenue shall, at the end of each calendar month, notify the State Treasurer of the amount of motor fuel tax that was not collected in the preceding calendar month due to the credits provided in section 66-1344. The State Treasurer shall transfer from the Ethanol Production Incentive Cash Fund to the Highway Trust Fund an amount equal to such credits less the following amounts:

(a) For 1993, 1994, and 1995, the amount generated during the calendar quarter by a one-cent tax on motor fuel pursuant to sections 66-489 and 66-6,107;

(b) For 1996, the amount generated during the calendar quarter by a three-quarters-cent tax on motor fuel pursuant to such sections;

(c) For 1997, the amount generated during the calendar quarter by a one-half-cent tax on motor fuel pursuant to such sections; and

(d) For 1998 and each year thereafter, no reduction.

For 1993 through 1997, if the amount generated pursuant to subdivisions (a), (b), and (c) of this subsection and the amount transferred pursuant to subsection (1) of this section are not sufficient to fund the credits provided in section 66-1344, then the credits shall be funded through the Ethanol Production Incentive Cash Fund but shall not be funded through either the Highway Cash Fund or the Highway Trust Fund. For 1998 and each year thereafter, the credits provided in such section shall be funded through the Ethanol Production Incentive Cash Fund but shall not be funded through either the Highway Cash Fund or the Highway Trust Fund.

If, during any month, the amount of money in the Ethanol Production Incentive Cash Fund is not sufficient to reimburse the Highway Trust Fund for credits earned pursuant to section 66-1344, the Department of Revenue shall suspend the transfer of credits by ethanol producers until such time as additional funds are available in the Ethanol Production Incentive Cash Fund for transfer to the Highway Trust Fund. Thereafter, the Department of Revenue shall, at the end of each month, allow transfer of accumulated credits earned by each ethanol producer on a prorated basis derived by dividing the amount in the fund by the aggregate amount of accumulated credits earned by all ethanol producers.

(3) The State Treasurer shall transfer from the Ethanol Production Incentive Cash Fund to the Management Services Expense Revolving Fund the amount reported under subsection (4) of section 66-1345.02 for each calendar month of the fiscal year as provided in such subsection.

(4) On December 31, 2012, the State Treasurer shall transfer one-half of the unexpended and unobligated funds, including all subsequent investment interest, from the Ethanol Production Incentive Cash Fund to the Nebraska Corn Development, Utilization, and Marketing Fund and the Grain Sorghum Development, Utilization, and Marketing Fund in the same proportion as funds were collected pursuant to section 66-1345.01 from corn and grain sorghum. The Department of Agriculture shall assist the State Treasurer in determining the amounts to be transferred to the funds. The State Treasurer shall transfer the remaining one-half of the unexpended and unobligated funds to the General Fund.

(5) Whenever the unobligated balance in the Ethanol Production Incentive Cash Fund exceeds twenty million dollars, the Department of Revenue shall notify the Department of Agriculture at which time the Department of Agriculture shall suspend collection of the excise tax levied pursuant to section 66-1345.01. If, after suspension of the collection of such excise tax, the balance of the fund falls below ten million dollars, the Department of Revenue shall notify the Department of Agriculture which shall resume collection of the excise tax.

(6) On or before December 1, 2003, and each December 1 thereafter, the Department of Revenue and the Nebraska Ethanol Board shall jointly submit a report to the Legislature which shall project the anticipated revenue and expenditures from the Ethanol Production Incentive Cash Fund through the termination of the ethanol production incentive programs pursuant to section 66-1344. The initial report shall include a projection of the amount of ethanol production for which the Department of Revenue has entered agreements to provide ethanol production credits pursuant to section 66-1344.01 and any additional ethanol production which the Department of Revenue and the Nebraska Ethanol Board reasonably anticipate may qualify for credits pursuant to section 66-1344.

**Source:** Laws 1992, LB 754, § 9; R.S.Supp.,1992, § 66-1327; Laws 1993, LB 364, § 16; Laws 1994, LB 961, § 2; Laws 1994, LB 1066, § 55; Laws 1994, LB 1160, § 114; Laws 1995, LB 182, § 62; Laws 1995, LB 377, § 8; Laws 1999, LB 605, § 2; Laws 2001, LB 329, § 13; Laws 2001, LB 536, § 3; Laws 2004, LB 479, § 7; Laws 2004, LB 983, § 59; Laws 2004, LB 1065, § 7; Laws 2007, LB322, § 13; Laws 2007, LB701, § 27; Laws 2010, LB689, § 2; Laws 2011, LB379, § 1.  
Effective date May 18, 2011.

#### Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

#### **66-1345.04 Transfer to Ethanol Production Incentive Cash Fund; legislative intent.**

(1) The State Treasurer shall transfer from the General Fund to the Ethanol Production Incentive Cash Fund, on or before the end of each of fiscal years 1995-96 and 1996-97, \$8,000,000 per fiscal year.

(2) It is the intent of the Legislature that the following General Fund amounts be appropriated to the Ethanol Production Incentive Cash Fund in each of the following years:

- (a) For each of fiscal years 1997-98 and 1998-99, \$7,000,000 per fiscal year;
- (b) For fiscal year 1999-2000, \$6,000,000;
- (c) For fiscal year 2000-01, \$5,000,000;
- (d) For fiscal year 2001-02 and for each of fiscal years 2003-04 through 2006-07, \$1,500,000;
- (e) For each of fiscal years 2005-06 and 2006-07, \$2,500,000 in addition to the amount in subdivision (2)(d) of this section;
- (f) For fiscal year 2007-08, \$5,500,000;
- (g) For each of fiscal years 2008-09 through 2011-12, \$2,500,000;
- (h) For each of fiscal years 2005-06 and 2006-07, \$5,000,000 in addition to the other amounts in this section;
- (i) For fiscal year 2007-08, \$15,500,000 in addition to the other amounts in this section;
- (j) For fiscal year 2009-10, \$8,250,000 in addition to the other amounts in this section;
- (k) For fiscal year 2010-11, \$3,000,000 in addition to the other amounts in this section; and
- (l) For fiscal year 2011-12, \$3,800,000 in addition to the other amounts in this section.

**Source:** Laws 1995, LB 377, § 4; Laws 1999, LB 605, § 5; Laws 2001, LB 536, § 6; Laws 2002, Second Spec. Sess., LB 1, § 3; Laws 2005, LB 90, § 19; Laws 2006, LB 968, § 1; Laws 2007, LB322, § 16; Laws 2009, LB316, § 17; Laws 2011, LB378, § 24.  
Effective date May 18, 2011.

**ARTICLE 14**

**INTERNATIONAL FUEL TAX AGREEMENT ACT**

Section 66-1405. Tax rate; how determined; setoff authorized.

**66-1405 Tax rate; how determined; setoff authorized.**

The amount of the tax imposed and collected on behalf of this state under an agreement shall be determined as provided in the Compressed Fuel Tax Act and sections 66-482 to 66-4,149. The Department of Revenue in administering the Compressed Fuel Tax Act and sections 66-482 to 66-4,149 shall provide information and assistance to the director regarding the amount of tax imposed and collected from time to time as may be necessary. The amount of tax due under an agreement may be collected by setoff against any state income tax refund due to the taxpayer pursuant to sections 77-27,210 to 77-27,221.

**Source:** Laws 1988, LB 836, § 5; Laws 1996, LB 1218, § 26; Laws 1997, LB 720, § 20; Laws 2011, LB289, § 37.  
Operative date January 1, 2012.

**Cross References**

**Compressed Fuel Tax Act**, see section 66-697.

## ARTICLE 15

## PETROLEUM RELEASE REMEDIAL ACTION

## Section

66-1519. Petroleum Release Remedial Action Cash Fund; created; use; investment.

**66-1519 Petroleum Release Remedial Action Cash Fund; created; use; investment.**

(1) There is hereby created the Petroleum Release Remedial Action Cash Fund to be administered by the department. Revenue from the following sources shall be remitted to the State Treasurer for credit to the fund:

(a) The fees imposed by sections 66-1520 and 66-1521;

(b) Money paid under an agreement, stipulation, cost-recovery award under section 66-1529.02, or settlement; and

(c) Money received by the department in the form of gifts, grants, reimbursements, property liquidations, or appropriations from any source intended to be used for the purposes of the fund.

(2) Money in the fund may be spent for: (a) Reimbursement for the costs of remedial action by a responsible person or his or her designated representative and costs of remedial action undertaken by the department in response to a release first reported after July 17, 1983, and on or before June 30, 2012, including reimbursement for damages caused by the department or a person acting at the department's direction while investigating or inspecting or during remedial action on property other than property on which a release or suspected release has occurred; (b) payment of any amount due from a third-party claim; (c) fee collection expenses incurred by the State Fire Marshal; (d) direct expenses incurred by the department in carrying out the Petroleum Release Remedial Action Act; (e) other costs related to fixtures and tangible personal property as provided in section 66-1529.01; (f) interest payments as allowed by section 66-1524; (g) claims approved by the State Claims Board authorized under section 66-1531; and (h) the direct and indirect costs incurred by the department in responding to spills and other environmental emergencies related to petroleum or petroleum products.

(3) Transfers may be made from the Petroleum Release Remedial Action Cash Fund to the General Fund at the direction of the Legislature. The State Treasurer shall transfer one million five hundred thousand dollars from the Petroleum Release Remedial Action Cash Fund to the Ethanol Production Incentive Cash Fund on July 1 of each of the following years: 2004 through 2011.

(4) Any money in the Petroleum Release Remedial Action 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 289, § 19; Laws 1991, LB 409, § 12; Laws 1993, LB 237, § 1; Laws 1994, LB 1066, § 57; Laws 1996, LB 1226, § 7; Laws 1998, LB 1161, § 28; Laws 1999, LB 270, § 2; Laws 2001, LB 461, § 3; Laws 2002, LB 1003, § 41; Laws 2002, LB 1310, § 7; Laws 2003, LB 367, § 2; Laws 2004, LB 962, § 105; Laws 2004, LB 1065, § 9; Laws 2005, LB 40, § 4; Laws 2008,

§ 66-1519

**OILS, FUELS, AND ENERGY**

LB1145, § 1; Laws 2009, LB154, § 15; Laws 2011, LB2, § 6;  
Laws 2011, LB29, § 2.

Effective date August 27, 2011.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB2, section 6, with LB29, section 2, to reflect all amendments.

**Cross References**

**Nebraska Capital Expansion Act**, see section 72-1269.

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

## CHAPTER 67

### PARTNERSHIPS

Article.

2. Nebraska Uniform Limited Partnership Act.  
Part I— General Provisions. 67-234.
4. Uniform Partnership Act of 1998.  
Part X—Limited Liability Partnership. 67-455.

#### ARTICLE 2

#### NEBRASKA UNIFORM LIMITED PARTNERSHIP ACT

##### PART I. GENERAL PROVISIONS

Section

67-234. Limited partnership name.

#### PART I

##### GENERAL PROVISIONS

#### **67-234 Limited partnership name.**

The name of each limited partnership as set forth in its certificate of limited partnership:

(1) Shall contain the words limited partnership or limited or the abbreviations L.P. or Ltd.;

(2) May not contain the name of a limited partner unless (i) it is also the name of a general partner, the corporate name of a corporate general partner, or the company name of a limited liability company general partner, (ii) the business of the limited partnership had been carried on under that name before the admission of that limited partner, or (iii) the use of the name of a limited partner in the name of the limited partnership is merely coincidental and not intended to mislead the public to believe that such limited partner is a general partner;

(3) Shall not be the same as or deceptively similar to, upon the records in the office of the Secretary of State, a trade name registered in this state pursuant to sections 87-208 to 87-219.01;

(4) Shall not be the same as or deceptively similar to, upon the records in the office of the Secretary of State, any other business entity name registered or on file with the Secretary of State pursuant to Nebraska law, except that a limited partnership may register under any name which is deceptively similar to, upon the records in the office of the Secretary of State, a business entity name registered or on file with the Secretary of State pursuant to Nebraska law with the consent of the other business entity or with the transfer of such name by the other business entity, which written consent or transfer shall be filed with the Secretary of State; and

(5) May contain the following words or abbreviations of like import: Company; association; club; foundation; fund; institute; society; union; syndicate; or trust.

**Source:** Laws 1981, LB 272, § 2; Laws 1989, LB 482, § 7; Laws 1993, LB 121, § 401; Laws 1997, LB 44, § 10; Laws 2003, LB 464, § 7; Laws 2011, LB462, § 5.  
Effective date August 27, 2011.

**ARTICLE 4**

**UNIFORM PARTNERSHIP ACT OF 1998**

**PART X. LIMITED LIABILITY PARTNERSHIP**

Section  
67-455. Name.

**PART X**

**LIMITED LIABILITY PARTNERSHIP**

**67-455 Name.**

(1) The name of a limited liability partnership shall:

(a) End with “registered limited liability partnership”, “limited liability partnership”, “R.L.L.P.”, “RLLP”, “L.L.P.”, or “LLP”;

(b) Not be the same as or deceptively similar to, upon the records in the office of the Secretary of State, a trade name registered in this state pursuant to sections 87-208 to 87-219.01; and

(c) Not be the same as or deceptively similar to, upon the records in the office of the Secretary of State, any other business entity name registered or on file with the Secretary of State pursuant to Nebraska law.

(2) A limited liability partnership may register under any name which is deceptively similar to, upon the records in the office of the Secretary of State, any other business entity name registered or on file with the Secretary of State pursuant to Nebraska law with the written consent of the other business entity or with the transfer of the name by the other business entity. Written consent to the use of the name or written consent to the transfer of the name shall be filed with the Secretary of State.

**Source:** Laws 1997, LB 523, § 55; Laws 2003, LB 464, § 9; Laws 2011, LB462, § 6.  
Effective date August 27, 2011.



## CHAPTER 68

### PUBLIC ASSISTANCE

Article.

1. Miscellaneous Provisions. 68-130.
6. Social Security. 68-621.
9. Medical Assistance Act. 68-901 to 68-971.
10. Assistance, Generally.
  - (b) Procedure and Penalties. 68-1017.02.
  - (h) Non-United-States Citizens. 68-1070. Repealed.
12. Social Services. 68-1202, 68-1204.
19. Nursing Facility Quality Assurance Assessment Act. 68-1901 to 68-1930.

#### ARTICLE 1

#### MISCELLANEOUS PROVISIONS

Section

68-130. Counties; maintain office and service facilities; review by department.

**68-130 Counties; maintain office and service facilities; review by department.**

(1) Counties shall maintain, at no additional cost to the Department of Health and Human Services, office and service facilities used for the administration of the public assistance programs as such facilities existed on April 1, 1983.

(2) The county board of any county may request in writing that the department review office and service facilities provided by the county for the department to determine if the department is able to reduce or eliminate office and service facilities within the county. The department shall respond in writing to such request within thirty days after receiving the request. The final decision with respect to maintaining, reducing, or eliminating office and service facilities in such county shall be made by the department, and the county may reduce or eliminate office and service facilities if authorized by such final decision.

**Source:** Laws 1982, LB 604, § 5; Laws 1983, LB 604, § 21; Laws 1996, LB 1044, § 289; Laws 2007, LB296, § 238; Laws 2011, LB234, § 1.  
Effective date August 27, 2011.

#### ARTICLE 6

#### SOCIAL SECURITY

Section

68-621. Terms, defined.

**68-621 Terms, defined.**

(1) A referendum group, as referred to in sections 68-621 to 68-630, shall consist of the employees of the state, a single political subdivision of this state, or any instrumentality jointly created by this state and any other state or states, the employees of which are or may be members of a retirement system covering

such employees, except that: (a) The employees of the University of Nebraska shall constitute a referendum group; (b) the employees of a Class V school district shall constitute a referendum group; (c) all employees of the State of Nebraska who are or may be members of the School Employees Retirement System of the State of Nebraska, including employees of institutions operated by the Board of Trustees of the Nebraska State Colleges, employees of institutions operated by the Department of Correctional Services and the Department of Health and Human Services, and employees subordinate to the State Board of Education, shall constitute a referendum group; and (d) all employees of school districts of the State of Nebraska, county superintendents, and county school administrators, who are or may be members of the School Employees Retirement System of the State of Nebraska, shall constitute a single referendum group.

(2) The managing authority of a political subdivision or educational institution shall be the board, committee, or council having general authority over a political subdivision, university, college, or school district whose employees constitute or are included in a referendum group; the managing authority of the state shall be the Governor; and insofar as sections 68-601 to 68-631 may be applicable to county superintendents and county school administrators, managing authority shall mean the board of county commissioners or county supervisors of the county in which the county superintendent was elected or with which the county school administrator contracted.

(3) Eligible employees, as referred to in sections 68-621 to 68-630, shall mean those employees of the state or any political subdivision thereof who at or during the time of voting in a referendum as herein provided are in positions covered by a retirement system, are members of such retirement system, and were in such positions at the time of giving of the notice of such referendum, as herein required, except that no such employee shall be considered an eligible employee if at the time of such voting such employee is in a position to which the state agreement applies or if such employee is in service in a police officer or firefighter position.

(4) State agreement, as referred to in sections 68-621 to 68-630, shall mean the agreement between the State of Nebraska and the designated officer of the United States of America entered into pursuant to section 68-603.

**Source:** Laws 1955, c. 264, § 15, p. 821; Laws 1969, c. 537, § 1, p. 2187; Laws 1973, LB 563, § 6; Laws 1988, LB 802, § 6; Laws 1996, LB 1044, § 297; Laws 1999, LB 272, § 20; Laws 2000, LB 1216, § 18; Laws 2010, LB684, § 9; Laws 2011, LB509, § 13.

Operative date July 1, 2011.

## ARTICLE 9

### MEDICAL ASSISTANCE ACT

#### Section

68-901. Medical Assistance Act; act, how cited.

68-909. Existing contracts, agreements, rules, regulations, plan, and waivers; how treated; report required; exception; Medicaid Reform Council; department; powers and duties.

68-914. Application for medical assistance; form; department; decision; appeal.

68-970. Nebraska Regional Poison Center; legislative findings.

68-971. Amendment to medicaid state plan or waiver; Nebraska Regional Poison Center; payments; use; department; duties; University of Nebraska Medical Center; report.

**68-901 Medical Assistance Act; act, how cited.**

Sections 68-901 to 68-971 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.

Effective date August 27, 2011.

**68-909 Existing contracts, agreements, rules, regulations, plan, and waivers; how treated; report required; exception; Medicaid Reform Council; department; powers and duties.**

(1) All contracts, agreements, rules, and regulations relating to the medical assistance program as entered into or adopted and promulgated by the department prior to July 1, 2006, and all provisions of the medicaid state plan and waivers adopted by the department prior to July 1, 2006, shall remain in effect until revised, amended, repealed, or nullified pursuant to law.

(2) Prior to the adoption and promulgation of proposed rules and regulations under section 68-912 or relating to the implementation of medicaid state plan amendments or waivers, the department shall provide a report to the Governor, the Legislature, and the Medicaid Reform Council no later than December 1 before the next regular session of the Legislature summarizing the purpose and content of such proposed rules and regulations and the projected impact of such proposed rules and regulations on recipients of medical assistance and medical assistance expenditures. Any changes in medicaid copayments in fiscal year 2011-12 are exempt from the reporting requirement of this subsection and the requirements of section 68-912.

(3) The Medicaid Reform Council, no later than thirty days after the date of receipt of any report under subsection (2) of this section, may conduct a public meeting to receive public comment regarding such report. The council shall promptly provide any comments and recommendations regarding such report in writing to the department. Such comments and recommendations shall be advisory only and shall not be binding on the department, but the department shall promptly provide a written response to such comments or recommendations to the council.

(4) The department shall monitor and shall periodically, as necessary, but no less than biennially, report to the Governor, the Legislature, and the Medicaid Reform Council on the implementation of rules and regulations, medicaid state plan amendments, and waivers adopted under the Medical Assistance Act and the effect of such rules and regulations, amendments, or waivers on eligible recipients of medical assistance and medical assistance expenditures.

**Source:** Laws 2006, LB 1248, § 9; Laws 2008, LB928, § 15; Laws 2011, LB468, § 1.

Effective date August 27, 2011.

**68-914 Application for medical assistance; form; department; decision; appeal.**

(1) An applicant for medical assistance shall file an application with the department in a manner and form prescribed by the department. The department shall process each application to determine whether the applicant is eligible for medical assistance. The department shall provide a determination of eligibility for medical assistance in a timely manner in compliance with 42 C.F.R. 435.911, including, but not limited to, a timely determination of eligibility for coverage of an emergency medical condition, such as labor and delivery.

(2) The department shall notify an applicant for or recipient of medical assistance of any decision of the department to deny or discontinue eligibility or to deny or modify medical assistance. Decisions of the department, including the failure of the department to act with reasonable promptness, may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

**Source:** Laws 2006, LB 1248, § 14; Laws 2011, LB494, § 1.  
Effective date May 19, 2011.

Cross References

Administrative Procedure Act, see section 84-920.

**68-970 Nebraska Regional Poison Center; legislative findings.**

The Legislature finds that:

(1) The Nebraska Regional Poison Center funded through the University of Nebraska Medical Center Cash Fund provides a valuable service to Nebraska;

(2) The center receives over seventeen thousand calls annually, seventy-two percent of the calls involve children, and over twenty-seven percent of the calls relate to children in families whose annual household income is at or below two hundred percent of the federal poverty level;

(3) The operation of the center has resulted in over ninety percent of the calls regarding a child under six years of age being handled in a manner such that the child was able to remain at home and the child did not have to visit an emergency room or use 911 or emergency medical services; and

(4) The operation of the center results in a cost savings of one hundred seventy-five dollars per call in 1996 dollars.

**Source:** Laws 2011, LB525, § 2.  
Effective date August 27, 2011.

**68-971 Amendment to medicaid state plan or waiver; Nebraska Regional Poison Center; payments; use; department; duties; University of Nebraska Medical Center; report.**

(1) On or before January 1, 2012, the department shall submit an application to the federal Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services to amend the medicaid state plan or seek a waiver to provide for utilization of the unused administrative cap to allow for payments to the Nebraska Regional Poison Center funded through the University of Nebraska Medical Center Cash Fund to help offset the cost for treatment of children who are eligible for assistance under the medical assistance program and the Children's Health Insurance Program established pursuant to 42 U.S.C. 1397aa et seq., pursuant to the federal Children's Health Insurance Program Reauthorization Act of 2009, Public Law 111-3, as such act existed on January 1, 2010.

(2) Upon approval of the amendment to the medicaid state plan or the granting of the waiver, the University of Nebraska Medical Center shall transfer an amount, not to exceed two hundred fifty thousand dollars, to the Health and Human Services Cash Fund for the Nebraska Department of Health and Human Services to meet the state match to maximize the use of the unused administrative cap money. At the time the department receives the transferred amount or any portion thereof and the corollary federal funds, the department shall transfer the combined funds to the University of Nebraska Medical Center Cash Fund for operation of the Nebraska Regional Poison Center. If no amendment is approved nor waiver granted or if less than two hundred fifty thousand dollars is needed for the match, then the University of Nebraska Medical Center may use the remaining state appropriation for the operation of the Nebraska Regional Poison Center.

(3) The University of Nebraska Medical Center shall report to the Legislative Fiscal Analyst on or before October 1 of every year the amount transferred to the department in the prior fiscal year and the amount of matching funds received under this section for the Nebraska Regional Poison Center in the prior fiscal year.

**Source:** Laws 2011, LB525, § 3.  
Effective date August 27, 2011.

## ARTICLE 10

### ASSISTANCE, GENERALLY

#### (b) PROCEDURE AND PENALTIES

Section

68-1017.02. Supplemental Nutrition Assistance Program; department; duties; state outreach plan; report; contents; person ineligible; when.

#### (h) NON-UNITED-STATES CITIZENS

68-1070. Repealed. Laws 2011, LB 465, § 2.

#### (b) PROCEDURE AND PENALTIES

**68-1017.02 Supplemental Nutrition Assistance Program; department; duties; state outreach plan; report; contents; 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 report annually 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)(i) On or before October 1, 2011, 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.

(ii) 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).

(iii) This subsection becomes effective only if the department receives funds pursuant to federal participation that may be used to implement this subsection.

(b) 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. Effective date April 15, 2011.

(h) NON-UNITED-STATES CITIZENS

**68-1070 Repealed. Laws 2011, LB 465, § 2.**

Operative date July 1, 2011.

**ARTICLE 12**

**SOCIAL SERVICES**

Section

68-1202. Social services; services included.

68-1204. Social services or specialized developmental disability services; rules and regulations; agreements; fee schedules.

**68-1202 Social services; services included.**

Social services may be provided on behalf of recipients with payments for such social services made directly to vendors. Social services shall include those mandatory and optional services to former, present, or potential social services recipients provided for under the federal Social Security Act, as amended, and described by the State of Nebraska in the approved State Plan

for Services. Such services may include, but shall not be limited to, foster care for children, child care, family planning, treatment for alcoholism and drug addiction, treatment for persons with mental retardation, health-related services, protective services for children, homemaker services, employment services, foster care for adults, protective services for adults, transportation services, home management and other functional education services, housing improvement services, legal services, adult day services, home delivered or congregate meals, educational services, and secondary prevention services, including, but not limited to, home visitation, child screening and early intervention, and parenting education programs.

**Source:** Laws 1973, LB 511, § 2; Laws 1986, LB 1177, § 28; Laws 2000, LB 819, § 82; Laws 2005, LB 264, § 1; Laws 2011, LB177, § 10. Effective date August 27, 2011.

**68-1204 Social services or specialized developmental disability services; rules and regulations; agreements; fee schedules.**

(1) For the purpose of providing or purchasing social services described in section 68-1202, the state hereby accepts and assents to all applicable provisions of the federal Social Security Act, as amended. The Department of Health and Human Services may adopt and promulgate rules and regulations, enter into agreements, and adopt fee schedules with regard to social services described in section 68-1202.

(2) The department shall adopt and promulgate rules and regulations to administer funds under Title XX of the federal Social Security Act, as amended, designated for specialized developmental disability services.

**Source:** Laws 1973, LB 511, § 4; Laws 1991, LB 830, § 31; Laws 1996, LB 1044, § 345; Laws 2006, LB 994, § 66; Laws 2007, LB296, § 277; Laws 2011, LB177, § 11. Effective date August 27, 2011.

**ARTICLE 19**

**NURSING FACILITY QUALITY ASSURANCE ASSESSMENT ACT**

Section

- 68-1901. Act, how cited.
- 68-1902. Definitions, where found.
- 68-1903. Bed-hold day, defined.
- 68-1904. Continuing care retirement community, defined.
- 68-1905. Department, defined.
- 68-1906. Gross inpatient revenue, defined.
- 68-1907. Hospital, defined.
- 68-1908. Life care contract, defined.
- 68-1909. Medical assistance program, defined.
- 68-1910. Medicare day, defined.
- 68-1911. Medicare upper payment limit, defined.
- 68-1912. Nursing facility, defined.
- 68-1913. Quality assurance assessment, defined.
- 68-1914. Resident day, defined.
- 68-1915. Skilled nursing facility, defined.
- 68-1916. Total resident days, defined.
- 68-1917. Quality assurance assessment; payment; computation.
- 68-1918. Providers exempt.
- 68-1919. Reduction of quality assurance assessment; when.
- 68-1920. Aggregate quality assurance assessment; limitation.



**NURSING FACILITY QUALITY ASSURANCE ASSESSMENT ACT § 68-1906**

Section

- 68-1921. Quality assurance assessment; payments; form.
- 68-1922. Department; collect quality assurance assessment; remit to State Treasurer.
- 68-1923. Quality assurance assessment; report; medicaid cost report; how treated.
- 68-1924. Underpayment or overpayment; notice.
- 68-1925. Failure to pay; penalty; waiver; when; withholding authorized; collection methods authorized.
- 68-1926. Nursing Facility Quality Assurance Fund; created; use; investment.
- 68-1927. Application for amendment to medicaid state plan; approval; effect; resubmission of waiver application.
- 68-1928. Department; discontinue collection of quality assurance assessments; when; return of money.
- 68-1929. Aggrieved party; hearing; petition.
- 68-1930. Rules and regulations.

**68-1901 Act, how cited.**

Sections 68-1901 to 68-1930 shall be known and may be cited as the Nursing Facility Quality Assurance Assessment Act.

**Source:** Laws 2011, LB600, § 1.  
Operative date July 1, 2011.

**68-1902 Definitions, where found.**

For purposes of the Nursing Facility Quality Assurance Assessment Act, the definitions found in sections 68-1903 to 68-1916 apply.

**Source:** Laws 2011, LB600, § 2.  
Operative date July 1, 2011.

**68-1903 Bed-hold day, defined.**

Bed-hold day means a day during which a bed is kept open pursuant to the bed-hold policy of the nursing facility or skilled nursing facility which permits a resident to return to the facility and resume residence in the facility after a transfer to a hospital or therapeutic leave.

**Source:** Laws 2011, LB600, § 3.  
Operative date July 1, 2011.

**68-1904 Continuing care retirement community, defined.**

Continuing care retirement community means an operational entity or related organization which, under a life care contract, provides a continuum of services, including, but not limited to, independent living, assisted-living, nursing facility, and skilled nursing facility services within the same or a contiguous municipality as defined in section 18-2410.

**Source:** Laws 2011, LB600, § 4.  
Operative date July 1, 2011.

**68-1905 Department, defined.**

Department means the Department of Health and Human Services.

**Source:** Laws 2011, LB600, § 5.  
Operative date July 1, 2011.

**68-1906 Gross inpatient revenue, defined.**

Gross inpatient revenue means the revenue paid to a nursing facility or skilled nursing facility for inpatient resident care, room, board, and services less contractual adjustments, bad debt, and revenue from sources other than operations, including, but not limited to, interest, guest meals, gifts, and grants.

**Source:** Laws 2011, LB600, § 6.  
Operative date July 1, 2011.

**68-1907 Hospital, defined.**

Hospital has the meaning found in section 71-419.

**Source:** Laws 2011, LB600, § 7.  
Operative date July 1, 2011.

**68-1908 Life care contract, defined.**

Life care contract means a contract between a continuing care retirement community and a resident of such community or his or her legal representative which:

(1) Includes each of the following express promises:

(a) The community agrees to provide services at any level along the continuum of care levels offered by the community;

(b) The base room fee will not increase as a resident transitions among levels of care, excluding any services or items upon which both parties initially agreed; and

(c) If the resident outlives and exhausts resources to pay for services, the community will continue to provide services at a reduced price or free of charge to the resident, excluding any payments from medicare, the medical assistance program, or a private insurance policy for which the resident is eligible and the community is certified or otherwise qualified to receive; and

(2) Requires the resident to agree to pay an entry fee to the community and to remain in the community for a minimum length of time subject to penalties against the entry fee.

**Source:** Laws 2011, LB600, § 8.  
Operative date July 1, 2011.

**68-1909 Medical assistance program, defined.**

Medical assistance program means the medical assistance program established pursuant to the Medical Assistance Act.

**Source:** Laws 2011, LB600, § 9.  
Operative date July 1, 2011.

**Cross References**

**Medical Assistance Act**, see section 68-901.

**68-1910 Medicare day, defined.**

Medicare day means any day of resident stay funded by medicare as the payment source and includes a day funded under Medicare Part A, under a Medicare Advantage or special needs plan, or under medicare hospice.

**Source:** Laws 2011, LB600, § 10.  
Operative date July 1, 2011.

**68-1911 Medicare upper payment limit, defined.**

Medicare upper payment limit means the limitation established by 42 C.F.R. 447.272 establishing a maximum amount of payment for services under the medical assistance program to nursing facilities, skilled nursing facilities, and hospitals.

**Source:** Laws 2011, LB600, § 11.  
Operative date July 1, 2011.

**68-1912 Nursing facility, defined.**

Nursing facility has the meaning found in section 71-424.

**Source:** Laws 2011, LB600, § 12.  
Operative date July 1, 2011.

**68-1913 Quality assurance assessment, defined.**

Quality assurance assessment means the assessment imposed under section 68-1917.

**Source:** Laws 2011, LB600, § 13.  
Operative date July 1, 2011.

**68-1914 Resident day, defined.**

Resident day means the calendar day in which care is provided to an individual resident of a nursing facility or skilled nursing facility that is not reimbursed under medicare, including the day of admission but not including the day of discharge, unless the dates of admission and discharge occur on the same day, in which case the resulting number of resident days is one resident day.

**Source:** Laws 2011, LB600, § 14.  
Operative date July 1, 2011.

**68-1915 Skilled nursing facility, defined.**

Skilled nursing facility has the meaning found in section 71-429.

**Source:** Laws 2011, LB600, § 15.  
Operative date July 1, 2011.

**68-1916 Total resident days, defined.**

Total resident days means the total number of residents residing in the nursing facility or skilled nursing facility between July 1 and June 30, multiplied by the number of days each such resident resided in that nursing facility or skilled nursing facility. If a resident is admitted and discharged on the same day, the resident shall be considered to be a resident for that day.

**Source:** Laws 2011, LB600, § 16.  
Operative date July 1, 2011.

**68-1917 Quality assurance assessment; payment; computation.**

Except for facilities which are exempt under section 68-1918 and facilities referred to in section 68-1919, each nursing facility or skilled nursing facility licensed under the Health Care Facility Licensure Act shall pay a quality assurance assessment based on total resident days, including bed-hold days,

less medicare days, for the purpose of improving the quality of nursing facility or skilled nursing facility care in this state. The assessment shall be three dollars and fifty cents for each resident day for the preceding calendar quarter. The assessment in the aggregate shall not exceed the amount stated in section 68-1920.

**Source:** Laws 2011, LB600, § 17.  
Operative date July 1, 2011.

**Cross References**

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

**68-1918 Providers exempt.**

The department shall exempt the following providers from the quality assurance assessment:

- (1) State-operated veterans homes listed in section 80-315;
- (2) Nursing facilities and skilled nursing facilities with twenty-six or fewer licensed beds; and
- (3) Continuing care retirement communities.

**Source:** Laws 2011, LB600, § 18.  
Operative date July 1, 2011.

**68-1919 Reduction of quality assurance assessment; when.**

The department shall reduce the quality assurance assessment for either certain high-volume medicaid nursing facilities or skilled nursing facilities with high patient volumes to meet the redistribution tests in 42 C.F.R. 433.68(e)(2). Under this section, the assessment shall be based on total resident days, including bed-hold days, less medicare days, for the purpose of improving the quality of nursing facility or skilled nursing facility care in this state.

**Source:** Laws 2011, LB600, § 19.  
Operative date July 1, 2011.

**68-1920 Aggregate quality assurance assessment; limitation.**

The aggregate quality assurance assessment shall not exceed the lower of the amount necessary to accomplish the uses specified in section 68-1926 or the maximum amount of gross inpatient revenue that may be assessed pursuant to the indirect guarantee threshold as established pursuant to 42 C.F.R. 433.68(f)(3)(i). The aggregate quality assurance assessment shall be imposed on a per-nonmedicare-day basis.

**Source:** Laws 2011, LB600, § 20.  
Operative date July 1, 2011.

**68-1921 Quality assurance assessment; payments; form.**

Each nursing facility or skilled nursing facility shall pay the quality assurance assessment to the department on a quarterly basis after the medical assistance payment rates of the facility are adjusted pursuant to section 68-1926. The department shall prepare and distribute a form on which a nursing facility or skilled nursing facility shall calculate and report the quality assurance assessment. A nursing facility or skilled nursing facility shall submit the completed

form with the quality assurance assessment no later than thirty days following the end of each calendar quarter.

**Source:** Laws 2011, LB600, § 21.  
Operative date July 1, 2011.

**68-1922 Department; collect quality assurance assessment; remit to State Treasurer.**

The department shall collect the quality assurance assessment and remit the assessment to the State Treasurer for credit to the Nursing Facility Quality Assurance Fund. No proceeds from the quality assurance assessment, including the federal match, shall be placed in the General Fund unless otherwise provided in the Nursing Facility Quality Assurance Assessment Act.

**Source:** Laws 2011, LB600, § 22.  
Operative date July 1, 2011.

**68-1923 Quality assurance assessment; report; medicaid cost report; how treated.**

A nursing facility or skilled nursing facility shall report the quality assurance assessment on a separate line of the medicaid cost report of the nursing facility or skilled nursing facility. The quality assurance assessment shall be treated as a separate component in developing rates paid to nursing facilities or skilled nursing facilities and shall not be included with existing rate components. In developing a rate component for the quality assurance assessment, the assessment shall be treated as a direct pass-through to each nursing facility and skilled nursing facility, retroactive to July 1, 2011. The quality assurance assessment shall not be subject to any cost limitation or revenue offset.

**Source:** Laws 2011, LB600, § 23.  
Operative date July 1, 2011.

**68-1924 Underpayment or overpayment; notice.**

If the department determines that a nursing facility or skilled nursing facility has underpaid or overpaid the quality assurance assessment, the department shall notify the nursing facility or skilled nursing facility of the unpaid quality assurance assessment or refund due. Such payment or refund shall be due or refunded within thirty days after the issuance of the notice.

**Source:** Laws 2011, LB600, § 24.  
Operative date July 1, 2011.

**68-1925 Failure to pay; penalty; waiver; when; withholding authorized; collection methods authorized.**

(1) A nursing facility or skilled nursing facility that fails to pay the quality assurance assessment within the timeframe specified in section 68-1921 or 68-1924, whichever is applicable, shall pay, in addition to the outstanding quality assurance assessment, a penalty of one and one-half percent of the quality assurance assessment amount owed for each month or portion of a month that the assessment is overdue. If the department determines that good cause is shown for failure to pay the quality assurance assessment, the department shall waive the penalty or a portion of the penalty.

(2) If a quality assurance assessment has not been received by the department within thirty days following the quarter for which the assessment is due, the department shall withhold an amount equal to the quality assurance assessment and penalty owed from any payment due such nursing facility or skilled nursing facility under the medical assistance program.

(3) The quality assurance assessment shall constitute a debt due the state and may be collected by civil action, including, but not limited to, the filing of tax liens, and any other method provided for by law.

(4) The department shall remit any penalty collected pursuant to this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

**Source:** Laws 2011, LB600, § 25.  
Operative date July 1, 2011.

**68-1926 Nursing Facility Quality Assurance Fund; created; use; investment.**

(1) The Nursing Facility Quality Assurance Fund is created. Interest and income earned by the fund shall be credited to the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The department shall use the Nursing Facility Quality Assurance Fund, including the matching federal financial participation under Title XIX of the federal Social Security Act, as amended, for the purpose of enhancing rates paid under the medical assistance program to nursing facilities and skilled nursing facilities, exclusive of the reimbursement paid under the medical assistance program, and, except for the purpose of reimbursement for retroactive compensation as provided in subsection (2) of section 68-1927 or reimbursement for rate enhancements in anticipation of receipt of quality assurance assessments or related matching federal financial participation pursuant to the Nursing Facility Quality Assurance Assessment Act, shall not use the fund to replace or offset existing state funds paid to nursing facilities and skilled nursing facilities for providing services under the medical assistance program.

(3) The Nursing Facility Quality Assurance Fund shall also be used as follows:

(a) To pay the department a reasonable administrative fee for enforcing and collecting the quality assurance assessment out of the Nursing Facility Quality Assurance Fund in addition to any federal medical assistance matching funds;

(b) To pay the share under the medical assistance program of a quality assurance assessment as an add-on to the rate under the medical assistance program for costs incurred by a nursing facility or skilled nursing facility. This rate add-on shall account for the cost incurred by a nursing facility or skilled nursing facility in paying the quality assurance assessment but only with respect to the pro rata portion of the assessment that correlates with the resident days in the nursing facility or skilled nursing facility that are attributable to residents funded by the medical assistance program;

(c) To rebase rates under the medical assistance program in accordance with the medicaid state plan as defined in section 68-907. In calculating rates, the proceeds of the quality assurance assessments and federal match not utilized under subdivisions (3)(a) and (b) of this section shall be used to enhance rates

by increasing the annual inflation factor to the extent allowed by such proceeds and any funds appropriated by the Legislature; and

(d) To increase quality assurance payments to fund covered services to recipients of benefits from the medical assistance program within medicare upper payment limits as determined by the department following consultation with nursing facilities and skilled nursing facilities.

**Source:** Laws 2011, LB600, § 26.  
Operative date July 1, 2011.

**Cross References**

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

**68-1927 Application for amendment to medicaid state plan; approval; effect; resubmission of waiver application.**

(1) On or before September 30, 2011, or after that date if allowable by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services, the Nebraska Department of Health and Human Services shall submit an application to the Centers for Medicare and Medicaid Services amending the medicaid state plan as defined in section 68-907 by requesting a waiver of the uniformity requirement pursuant to 42 C.F.R. 433.68(e) to exempt certain facilities from the quality assurance assessment and to permit other facilities to pay the quality assurance assessment at lower rates.

(2) The quality assurance assessment is not due and payable until an amendment to the medicaid state plan which increases the rates paid to nursing facilities and skilled nursing facilities is approved by the Centers for Medicare and Medicaid Services and the nursing facilities and skilled nursing facilities have been compensated retroactively for the increased rate for services pursuant to section 68-1926.

(3) If the waiver requested under this section is not approved by the Centers for Medicare and Medicaid Services, the department may resubmit the waiver application to address any changes required by the Centers for Medicare and Medicaid Services in the rejection of such application, including the classes of facilities exempt and the rates or amounts for quality assurance assessments, if such changes do not exceed the authority and purposes of the Nursing Facility Quality Assurance Assessment Act.

**Source:** Laws 2011, LB600, § 27.  
Operative date July 1, 2011.

**68-1928 Department; discontinue collection of quality assurance assessments; when; return of money.**

(1) The department shall discontinue collection of the quality assurance assessments:

(a) If the waiver requested pursuant to section 68-1927 or the medicaid state plan amendment reflecting the payment rates in section 68-1926 is given final disapproval by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services;

(b) If, in any fiscal year, the state appropriates funds for nursing facility or skilled nursing facility rates at an amount that reimburses nursing facilities or skilled nursing facilities at a lesser percentage than the median percentage

appropriated to other classes of providers of covered services under the medical assistance program;

(c) If money in the Nursing Facility Quality Assurance Fund is appropriated, transferred, or otherwise expended for any use other than uses permitted pursuant to the Nursing Facility Quality Assurance Assessment Act; or

(d) If federal financial participation to match the quality assurance assessments made under the act becomes unavailable under federal law. In such case, the department shall terminate the collection of the quality assurance assessments beginning on the date the federal statutory, regulatory, or interpretive change takes effect.

(2) If collection of the quality assurance assessment is discontinued as provided in this section, the money in the Nursing Facility Quality Assurance Fund shall be returned to the nursing facilities or skilled nursing facilities from which the quality assurance assessments were collected on the same basis as the assessments were assessed.

**Source:** Laws 2011, LB600, § 28.  
Operative date July 1, 2011.

**68-1929 Aggrieved party; hearing; petition.**

A nursing facility or skilled nursing facility aggrieved by an action of the department under the Nursing Facility Quality Assurance Assessment Act may file a petition for hearing with the director of the Division of Medicaid and Long-Term Care of the department. The hearing shall be conducted pursuant to the Administrative Procedure Act and rules and regulations of the department.

**Source:** Laws 2011, LB600, § 29.  
Operative date July 1, 2011.

**Cross References**

**Administrative Procedure Act**, see section 84-920.

**68-1930 Rules and regulations.**

The department may adopt and promulgate rules and regulations to carry out the Nursing Facility Quality Assurance Assessment Act.

**Source:** Laws 2011, LB600, § 30.  
Operative date July 1, 2011.



## CHAPTER 69

### PERSONAL PROPERTY

Article.

- 5. Reduced Cigarette Ignition Propensity Act. 69-502.
- 21. Consumer Rental Purchase Agreements. 69-2103 to 69-2112.
- 24. Guns.
  - (a) Handguns. 69-2402, 69-2409.01.
  - (c) Concealed Handgun Permit Act. 69-2433.
- 27. Tobacco. 69-2702 to 69-2711.

#### ARTICLE 5

#### REDUCED CIGARETTE IGNITION PROPENSITY ACT

Section

69-502. Terms, defined.

##### **69-502 Terms, defined.**

For purposes of the Reduced Cigarette Ignition Propensity Act:

- (1) Agent means any person authorized by the Tax Commissioner to purchase and affix stamps or cigarette tax meter impressions on packages of cigarettes under sections 77-2601 to 77-2615;
- (2) Cigarette has the same meaning as in section 77-2601;
- (3) Consumer testing means an assessment of cigarettes that is conducted by a manufacturer, or under the control or direction of a manufacturer, for the purpose of evaluating consumer acceptance of the cigarettes;
- (4) Manufacturer means:
  - (a) Any entity which manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that such manufacturer intends to sell in this state, including cigarettes intended to be sold in the United States through an importer;
  - (b) The first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or
  - (c) Any entity that becomes a successor of an entity described in subdivision (4)(a) or (b) of this section;
- (5) Quality control and quality assurance program means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. Such a program ensures that the testing repeatability remains within the required repeatability values stated in section 69-503 for all test trials used to certify cigarettes in accordance with the Reduced Cigarette Ignition Propensity Act;
- (6) Repeatability means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five percent of the time;

(7) Retail dealer means any person, other than a manufacturer or wholesale dealer, engaged in selling cigarettes or tobacco products;

(8) Sale means any transfer for consideration, exchange, barter, gift, offer for sale, or distribution in any manner or by any means whatsoever;

(9) Sell means to sell or to offer or agree to do the same; and

(10) Wholesale dealer means any person, other than a manufacturer, who sells cigarettes or tobacco products to retail dealers or other persons for purposes of resale and any person who owns, operates, or maintains one or more cigarette or tobacco product vending machines in, at, or upon premises owned or occupied by any other person.

**Source:** Laws 2009, LB198, § 2; Laws 2011, LB590, § 3.  
Operative date January 1, 2013.

## 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. 226.2(a)(16), as such regulation existed on January 1, 2011, and 15 U.S.C. 1602(g), as such section existed on January 1, 2011, or a lease which constitutes a consumer lease as defined in 12 C.F.R. 213.2(e), as such regulation existed on January 1, 2011. 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.  
Effective date February 23, 2011.

**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

(1) The date of the transaction and the names of the lessor and the consumer.

(2) With respect to matters specifically governed by the Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act existed on January 1, 2011, compliance with such act shall satisfy the requirements of this section.

(3) Subsection (1) of this section shall not apply to a lessor who complies with the disclosure requirements of the Consumer Credit Protection Act, 15 U.S.C. 1667a, as such section existed on January 1, 2011, 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.

Effective date February 23, 2011.

**69-2112 Advertisement; requirements.**

(1) Any advertisement for a consumer rental purchase agreement which refers to or states the amount of any payment or the right to acquire ownership for any specific item shall also state clearly and conspicuously the following if applicable:

(a) That the transaction advertised is a consumer rental purchase agreement;

(b) The total of payments to acquire ownership; and

(c) That the consumer acquires no ownership rights until the total of payments to acquire ownership is paid.

(2) Any owner or employee of any medium in which an advertisement appears or through which it is disseminated shall not be liable under this section.

(3) Subsection (1) of this section shall not apply to an advertisement which does not refer to a specific item of property, which does not refer to or state the amount of any payment, or which is published in the yellow pages of a telephone directory or any similar directory of business.

(4) With respect to matters specifically governed by the Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act existed on January 1, 2011, 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.

Effective date February 23, 2011.

## ARTICLE 24

### GUNS

#### (a) HANDGUNS

Section

69-2402. Terms, defined.

69-2409.01. Data base; created; disclosure; limitation; liability; prohibited act; violation; penalty.

#### (c) CONCEALED HANDGUN PERMIT ACT

69-2433. Applicant; requirements.

#### (a) HANDGUNS

#### **69-2402 Terms, defined.**

For purposes of sections 69-2401 to 69-2425:

(1) Antique handgun or pistol means any handgun or pistol, including those with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898 and any replica of such a handgun or pistol if such replica (a) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (b) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade;

(2) Criminal history record check includes a check of the criminal history records of the Nebraska State Patrol and a check of the Federal Bureau of Investigation's National Instant Criminal Background Check System;

(3) Firearm-related disability means a person is not permitted to (a) purchase, possess, ship, transport, or receive a firearm under either state or federal law, (b) obtain a certificate to purchase, lease, rent, or receive transfer of a handgun under section 69-2404, or (c) obtain a permit to carry a concealed handgun under the Concealed Handgun Permit Act; and

(4) 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.

**Source:** Laws 1991, LB 355, § 25; Laws 1996, LB 1055, § 2; Laws 2006, LB 1227, § 1; Laws 2011, LB512, § 2.

Operative date January 1, 2012.

#### Cross References

Concealed Handgun Permit Act, see section 69-2427.

**69-2409.01 Data base; created; disclosure; limitation; liability; prohibited act; violation; penalty.**

(1) For purposes of sections 69-2401 to 69-2425, the Nebraska State Patrol shall be furnished with only such information as may be necessary for the sole purpose of determining whether an individual is disqualified from purchasing or possessing a handgun pursuant to state law or is subject to the disability provisions of 18 U.S.C. 922(d)(4) and (g)(4). Such information shall be furnished by the Department of Health and Human Services. The clerks of the various courts shall furnish to the Department of Health and Human Services and Nebraska State Patrol, as soon as practicable but within thirty days after an order of commitment or discharge is issued or after removal of firearm-related disabilities pursuant to section 71-963, all information necessary to set up and maintain the data base required by this section. This information shall include (a) information regarding those persons who are currently receiving mental health treatment pursuant to a commitment order of a mental health board or who have been discharged, (b) information regarding those persons who have been committed to treatment pursuant to section 29-3702, and (c) information regarding those persons who have had firearm-related disabilities removed pursuant to section 71-963. The mental health board shall notify the Department of Health and Human Services and the Nebraska State Patrol when such disabilities have been removed. The Department of Health and Human Services shall also maintain in the data base a listing of persons committed to treatment pursuant to section 29-3702. To ensure the accuracy of the data base, any information maintained or disclosed under this subsection shall be updated, corrected, modified, or removed, as appropriate, and as soon as practicable, from any data base that the state or federal government maintains and makes available to the National Instant Criminal Background Check System. The procedures for furnishing the information shall guarantee that no information is released beyond what is necessary for purposes of this section.

(2) In order to comply with sections 69-2401 and 69-2403 to 69-2408 and this section, the Nebraska State Patrol shall provide to the chief of police or sheriff of an applicant's place of residence or a licensee in the process of a criminal history record check pursuant to section 69-2411 only the information regarding whether or not the applicant is disqualified from purchasing or possessing a handgun.

(3) Any person, agency, or mental health board participating in good faith in the reporting or disclosure of records and communications under this section is immune from any liability, civil, criminal, or otherwise, that might result by reason of the action.

(4) Any person who intentionally causes the Nebraska State Patrol to request information pursuant to this section without reasonable belief that the named individual has submitted a written application under section 69-2404 or has completed a consent form under section 69-2410 shall be guilty of a Class II misdemeanor in addition to other civil or criminal liability under state or federal law.

**Source:** Laws 1996, LB 1055, § 1; Laws 1997, LB 307, § 112; Laws 2011, LB512, § 3.

Operative date January 1, 2012.

## (c) CONCEALED HANDGUN PERMIT ACT

**69-2433 Applicant; requirements.**

An applicant shall:

- (1) Be at least twenty-one years of age;
- (2) Not be prohibited from purchasing or possessing a handgun by 18 U.S.C. 922, as such section existed on January 1, 2005;
- (3) Possess the same powers of eyesight as required under section 60-4,118 for a Class O operator's license. If an applicant does not possess a current Nebraska motor vehicle operator's license, the applicant may present a current optometrist's or ophthalmologist's statement certifying the vision reading obtained when testing the applicant. If such certified vision reading meets the vision requirements prescribed by section 60-4,118 for a Class O operator's license, the vision requirements of this subdivision shall have been met;
- (4) Not have pled guilty to, not have pled nolo contendere to, or not have been convicted of a felony under the laws of this state or under the laws of any other jurisdiction;
- (5) Not have pled guilty to, not have pled nolo contendere to, or not have been convicted of a misdemeanor crime of violence under the laws of this state or under the laws of any other jurisdiction within the ten years immediately preceding the date of application;
- (6) Not have been found in the previous ten years to be a mentally ill and dangerous person under the Nebraska Mental Health Commitment Act or a similar law of another jurisdiction or not be currently adjudged mentally incompetent;
- (7)(a) Have been a resident of this state for at least one hundred eighty days. For purposes of this section, resident does not include an applicant who maintains a residence in another state and claims that residence for voting or tax purposes except as provided in subdivision (b) or (c) of this subdivision;
- (b) If an applicant is a member of the United States Armed Forces, such applicant shall be considered a resident of this state for purposes of this section after he or she has been stationed at a military installation in this state pursuant to permanent duty station orders even though he or she maintains a residence in another state and claims that residence for voting or tax purposes; or
- (c) If an applicant is a new Nebraska resident and possesses a valid permit to carry a concealed handgun issued by his or her previous state of residence that is recognized by this state pursuant to section 69-2448, such applicant shall be considered a resident of this state for purposes of this section;
- (8) Have had no violations of any law of this state relating to firearms, unlawful use of a weapon, or controlled substances or of any similar laws of another jurisdiction in the ten years preceding the date of application;
- (9) Not be on parole, probation, house arrest, or work release;
- (10) Be a citizen of the United States; and
- (11) Provide proof of training.

**Source:** Laws 2006, LB 454, § 7; Laws 2009, LB430, § 11; Laws 2010, LB817, § 8; Laws 2011, LB512, § 4.  
Operative date January 1, 2012.

## Cross References

Nebraska Mental Health Commitment Act, see section 71-901.

## ARTICLE 27

## TOBACCO

## Section

- 69-2702. Tobacco product manufacturer; terms, defined.  
 69-2703. Tobacco product manufacturer; requirements to sell within the state.  
 69-2705. Terms, defined.  
 69-2706. Tobacco product manufacturer; certification; contents; Tax Commissioner; powers and duties; directory; prohibited acts.  
 69-2707. Nonresident or foreign nonparticipating manufacturer; agent for service of process.  
 69-2707.01. Nonparticipating manufacturers; bond; amount; failure to make escrow deposits; execution upon bond.  
 69-2708. Stamping agent; duties; Tax Commissioner; Attorney General; powers.  
 69-2708.01. Stamping agent; responsible for escrow deposits; when; liability; calculation.  
 69-2709. Revocation or suspension of stamping agent license; civil penalty; termination of license; grounds; violations; penalties; effect of termination; eligibility for reinstatement; directory license; termination; procedure; contraband; actions to enjoin; criminal penalty; remedies cumulative.  
 69-2710. Removal from directory; procedure.  
 69-2710.01. Report; contents.  
 69-2710.02. License of stamping agent; termination; grounds; cure; notice; reinstatement; removal from directory; grounds; cure; notice; procedure.  
 69-2710.03. Rules and regulations.  
 69-2711. Conflict of laws; how treated.

**69-2702 Tobacco product manufacturer; terms, defined.**

For purposes of this section and section 69-2703:

(1) Adjusted for inflation means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement;

(2) Affiliate means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this subdivision, the terms owns, is owned, and ownership means ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the term person means an individual, a partnership, a committee, an association, a corporation, or any other organization or group of persons;

(3) Allocable share means allocable share as that term is defined in the Master Settlement Agreement;

(4) Cigarette means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; (b) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (c) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subdivision (a) of this subdivision. The term cigarette includes roll-your-own tobacco (i.e., any tobacco which, because



of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition, nine-hundredths of an ounce of roll-your-own tobacco shall constitute one individual cigarette;

(5) Days means calendar days unless specified otherwise;

(6) Importer means any person in the United States to whom non-federal-excise-tax-paid cigarettes manufactured in a foreign country are shipped or consigned, any person who removes cigarettes for sale or consumption in the United States from a customs bonded manufacturing warehouse, or any person who smuggles or otherwise unlawfully brings cigarettes into the United States;

(7) Indian country means (a) all land in this state within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of this state, and (c) all Indian allotments in this state, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments;

(8) Indian tribe means any Indian tribe, band, nation, or other organized group or community that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians under the laws of the United States;

(9) Master Settlement Agreement means the settlement agreement entered into on November 23, 1998, between the state and specific United States tobacco product manufacturers and related documents to such agreement;

(10) Qualified escrow fund means an escrow arrangement with a federally or state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer that places such funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with subdivision (2)(b) of section 69-2703;

(11) Released claims means released claims as that term is defined in the Master Settlement Agreement;

(12) Releasing parties means releasing parties as that term is defined in the Master Settlement Agreement;

(13) Tobacco product manufacturer means an entity that after April 29, 1999, directly and not exclusively through any affiliate:

(a) Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except when such importer is an original participating manufacturer (as that term is defined in the Master Settlement Agreement) that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the Master Settlement Agreement and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

(b) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(c) Becomes a successor of an entity described in subdivision (13)(a) or (13)(b) of this section.

The term tobacco product manufacturer does not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of subdivisions (13)(a) through (13)(c) of this section; and

(14) Units sold means the number of individual cigarettes sold in the state by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, during the year in question, in packs required to bear a stamp pursuant to section 77-2603 or 77-2603.01 or, in the case of roll-your-own tobacco, on which a tax is due pursuant to section 77-4008.

**Source:** Laws 1999, LB 574, § 1; Laws 2003, LB 572, § 8; Laws 2011, LB590, § 4.

Operative date January 1, 2013.

**69-2703 Tobacco product manufacturer; requirements to sell within the state.**

Any tobacco product manufacturer selling cigarettes to consumers within the state, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, after April 29, 1999, shall do one of the following:

(1) Become a participating manufacturer, as that term is defined in section II(jj) of the Master Settlement Agreement, and generally perform its financial obligations under the Master Settlement Agreement; or

(2)(a) Place into a qualified escrow fund on a quarterly basis, no later than thirty days after the end of each calendar quarter in which sales are made, the following amounts, as such amounts are adjusted for inflation:

(i) 1999: \$.0094241 per unit sold after April 29, 1999;

(ii) 2000: \$.0104712 per unit sold;

(iii) For each of the years 2001 and 2002: \$.0136125 per unit sold;

(iv) For each of the years 2003, 2004, 2005, and 2006: \$.0167539 per unit sold; and

(v) For the year 2007 and each year thereafter: \$.0188482 per unit sold.

(b) A tobacco product manufacturer that places funds into escrow pursuant to subdivision (2)(a) of this section shall receive the interest or other appreciation on such funds as earned. Such funds shall be released from escrow only under the following circumstances:

(i) To pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the state or any releasing party located or residing in the state. Funds shall be released from escrow under this subdivision (2)(b)(i) in the order in which they were placed into escrow and only to the extent and at the time necessary to make payments required under such judgment or settlement;

(ii) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the state in a particular year was greater than the Master Settlement Agreement

payments, as determined pursuant to section IX(i) of that Agreement including after final determination of all adjustments, that such manufacturer would have been required to make on account of such units sold had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer;

(iii) To the extent not released from escrow under subdivision (2)(b)(i) or (2)(b)(ii) of this section, funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow; or

(iv) An Indian tribe may seek release of escrow deposited pursuant to this section on cigarettes sold on an Indian tribe's Indian country to its tribal members pursuant to an agreement entered into between the state and the Indian tribe pursuant to section 77-2602.06. Amounts the state collects on a bond under section 69-2707.01 shall not be subject to release under this section.

(c) Each tobacco product manufacturer that elects to place funds into escrow pursuant to subdivision (2) of this section shall annually certify to the Attorney General that it is in compliance with subdivision (2) of this section. The Attorney General may bring a civil action on behalf of the state against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any calendar quarter to place into escrow the funds required under this section shall:

(i) Be required within fifteen days to place such funds into escrow as shall bring the manufacturer into compliance with this section. The court, upon a finding of a violation of subdivision (2) of this section, may impose a civil penalty in an amount not to exceed five percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed one hundred percent of the original amount improperly withheld from escrow;

(ii) In the case of a knowing violation, be required within fifteen days to place such funds into escrow as shall bring the manufacturer into compliance with this section. The court, upon a finding of a knowing violation of subdivision (2) of this section, may impose a civil penalty in an amount not to exceed fifteen percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed three hundred percent of the original amount improperly withheld from escrow. Such civil penalty shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska; and

(iii) In the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the state, whether directly or through a distributor, retailer, or similar intermediary, for a period not to exceed two years.

(d) An importer shall be jointly and severally liable for escrow deposits due from a nonparticipating manufacturer with respect to nonparticipating manufacturer cigarettes that it imported and which were then sold in this state, except as provided for by an agreement entered into pursuant to section 77-2602.06.

(e) Each failure to make a quarterly deposit required under this section constitutes a separate violation.

**Source:** Laws 1999, LB 574, § 2; Laws 2004, LB 944, § 1; Laws 2011, LB590, § 5.

Operative date January 1, 2013.

**69-2705 Terms, defined.**

For purposes of sections 69-2704 to 69-2711:

(1) Brand family means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, menthol, lights, kings, and 100s, and includes any brand name, alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, or recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes;

(2) Cigarette has the same meaning as in section 69-2702;

(3) Cigarette inputs means any machinery or other component parts typically used in the manufacture of cigarettes, including, without limitation, tobacco whether processed or unprocessed, cigarette papers and tubes, cigarette filters or any component parts intended for use in the making of cigarette filters, and any machinery typically used in the making of cigarettes;

(4) Days has the same meaning as in section 69-2702;

(5) Directory means the directory compiled by the Tax Commissioner under section 69-2706 or, in the case of references to another state's directory, the directory compiled under the similar law in that other state;

(6) Importer has the same meaning as in section 69-2702;

(7) Indian country has the same meaning as in section 69-2702;

(8) Indian tribe has the same meaning as in section 69-2702;

(9) Master Settlement Agreement has the same meaning as in section 69-2702;

(10) Nonparticipating manufacturer means any tobacco product manufacturer that is not a participating manufacturer;

(11) Nonparticipating manufacturer cigarettes means cigarettes (a) of a brand family that is not included in the certification of a participating manufacturer under subsection (1) of section 69-2706, (b) that are subject to the escrow requirement under subdivision (2) of section 69-2703 because the participating manufacturer in whose certification the brand family is included is not generally performing its financial obligations under the Master Settlement Agreement, or (c) of a brand family of a participating manufacturer that is not otherwise listed on the directory under subsection (2) of section 69-2706;

(12) Package means any pack or other container on which a state stamp or tribal stamp could be applied consistent with and as required by sections 69-2701 to 69-2711 and 77-2601 to 77-2622 that contains one or more individual cigarettes for sale. Nothing in such sections shall alter any other applicable requirement with respect to the minimum number of cigarettes that may be contained in a pack or other container of cigarettes. References to package do not include a container of multiple packages;

(13) Participating manufacturer has the same meaning as in section II(jj) of the Master Settlement Agreement;

(14) Person means any natural person, trustee, company, partnership, corporation, or other legal entity, including any Indian tribe or instrumentality thereof;

(15) Purchase means any acquisition in any manner or by any means for any consideration. The term includes transporting or receiving product in connection with a purchase;

(16) Qualified escrow fund has the same meaning as in section 69-2702;

(17) Retailer includes retail dealers as defined in section 77-2601 or anyone who is licensed under sections 28-1420 to 28-1422;

(18) Sale or sell means any transfer, exchange, or barter in any manner or by any means for any consideration. Sale or sell includes distributing or shipping product in connection with a sale;

(19) Shortfall amount means the difference between (a) the full amount of the deposit required to be made by a nonparticipating manufacturer for a calendar quarter under section 69-2703 and (b) the sum of (i) any amounts precollected by a stamping agent and deposited into escrow for that calendar quarter on behalf of the nonparticipating manufacturer under section 69-2708.01, (ii) the amount deposited into escrow by the nonparticipating manufacturer for that calendar quarter under section 69-2703, (iii) any amounts deposited into escrow for that calendar quarter under subdivision (2)(d) of section 69-2703 by an importer on such nonparticipating manufacturer's cigarettes, and (iv) any amounts collected by the state for that calendar quarter under the bond posted by the nonparticipating manufacturer under section 69-2707.01. The shortfall amount, if any, for a nonparticipating manufacturer for a calendar quarter shall be calculated by the Attorney General within fifteen days following the date on which the state determines the amount it will collect on the bond posted by the nonparticipating manufacturer as provided in section 69-2707.01;

(20) Stamping agent means a person that is authorized to affix stamps to packages or other containers of cigarettes under section 77-2603 or 77-2603.01 or any person that is required to pay the tobacco tax imposed pursuant to section 77-4008 on roll-your-own cigarettes;

(21) Tax Commissioner means the Tax Commissioner of the State of Nebraska;

(22) Tobacco product manufacturer has the same meaning as in section 69-2702;

(23) Units sold has the same meaning as in section 69-2702; and

(24) Unstamped cigarettes means any cigarettes that are not contained in a package bearing a stamp required under section 77-2603 or 77-2603.01.

**Source:** Laws 2003, LB 572, § 2; Laws 2011, LB590, § 6.

Operative date January 1, 2013.

**69-2706 Tobacco product manufacturer; certification; contents; Tax Commissioner; powers and duties; directory; prohibited acts.**

(1)(a) Every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, shall execute and deliver on a form prescribed by the Tax Commissioner a certification to the Tax Commissioner and the Attorney General no later than the thirtieth day of April each year, certifying under penalty of perjury that, as of the date of such certification, such tobacco product manufacturer either is a participating manufacturer in compliance with subdivision (1) of section 69-2703 or is a nonparticipating manufacturer in full compliance with subdivision (2) of section 69-2703.

(b) A participating manufacturer shall include in its certification a list of its brand families. The participating manufacturer shall update such list thirty calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the Tax Commissioner and the Attorney General.

(c) A nonparticipating manufacturer shall include in its certification (i) a list of all of its brand families and the number of units sold for each brand family that were sold in the state during the preceding calendar year and (ii) a list of all of its brand families that have been sold in the state at any time during the current calendar year (A) indicating by an asterisk any brand family sold in the state during the preceding or current calendar year that is no longer being sold in the state as of the date of such certification and (B) identifying by name and address any other manufacturer of such brand families in the preceding calendar year. The nonparticipating manufacturer shall update such list thirty calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the Tax Commissioner and the Attorney General.

(d) In the case of a nonparticipating manufacturer, such certification shall further certify:

(i) That such nonparticipating manufacturer is registered to do business in the state or has appointed an agent for service of process in Nebraska and provided notice thereof as required by section 69-2707;

(ii) That such nonparticipating manufacturer has established and continues to maintain a qualified escrow fund pursuant to a qualified escrow agreement that has been reviewed and approved by the Attorney General or has been submitted for review by the Attorney General;

(iii) That such nonparticipating manufacturer is in full compliance with subdivision (2) of section 69-2703 and this section and any rules and regulations adopted and promulgated pursuant thereto;

(iv)(A) The name, address, and telephone number of the financial institution where the nonparticipating manufacturer has established such qualified escrow fund required pursuant to subdivision (2) of section 69-2703 and all rules and regulations adopted and promulgated pursuant thereto; (B) the account number of such qualified escrow fund and any subaccount number for the State of Nebraska; (C) the amount such nonparticipating manufacturer placed in such fund for cigarettes sold in the state during the preceding calendar year, the dates and amount of each such deposit, and such evidence or verification as may be deemed necessary by the Attorney General to confirm the foregoing; and (D) the amounts and dates of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from such fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to subdivision (2) of section 69-2703 and all rules and regulations adopted and promulgated pursuant thereto;

(v) That such nonparticipating manufacturer consents to be sued in the district courts of the State of Nebraska for purposes of the state (A) enforcing any provision of sections 69-2703 to 69-2711 and any rules and regulations adopted and promulgated thereunder or (B) bringing a released claim as defined in section 69-2702; and

(vi) The information required to establish that such nonparticipating manufacturer has posted the appropriate bond or cash equivalent required under section 69-2707.01.

(e) A tobacco product manufacturer shall not include a brand family in its certification unless (i) in the case of a participating manufacturer, the participating manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year in the volume and shares determined pursuant to the Master Settlement Agreement and (ii) in the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of subdivision (2) of section 69-2703. Nothing in this section shall be construed as limiting or otherwise affecting the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the Master Settlement Agreement or for purposes of section 69-2703.

(f) Tobacco product manufacturers shall maintain all invoices and documentation of sales and other such information relied upon for such certification for a period of five years unless otherwise required by law to maintain them for a greater period of time.

(2) The Tax Commissioner shall develop, maintain, and make available for public inspection or publish on its web site a directory listing all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of subsection (1) of this section and all brand families that are listed in such certifications, and:

(a) The Tax Commissioner shall not include or retain in such directory the name or brand families of any tobacco product manufacturer that has failed to provide the required certification or whose certification the commissioner determines is not in compliance with subsection (1) of this section unless the Tax Commissioner has determined that such violation has been cured to his or her satisfaction;

(b) Neither a tobacco product manufacturer nor brand family shall be included or retained in the directory if the Attorney General recommends and notifies the Tax Commissioner who concludes, in the case of a nonparticipating manufacturer, that (i) any escrow payment required pursuant to subdivision (2) of section 69-2703 for any period for any brand family, whether or not listed by such nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the Attorney General or (ii) any outstanding final judgment, including interest thereon, for violations of section 69-2703 has not been fully satisfied for such brand family and such manufacturer;

(c) As a condition to being listed and having its brand families listed in the directory, a tobacco product manufacturer shall also (i) certify annually that such manufacturer or its importer holds a valid permit under 26 U.S.C. 5713 and provide a copy of such permit to the Tax Commissioner and the Attorney General, (ii) upon request of the Tax Commissioner or Attorney General, provide documentary proof that it is not in violation of subdivision (1) of section 59-1520, and (iii) certify that it is in compliance with all reporting and registration requirements of 15 U.S.C. 376 and 376a;

(d) The Tax Commissioner shall update the directory no later than May 15 of each year to reflect certifications made on or before April 30 as required in subsection (1) of this section. The Tax Commissioner shall continuously update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of sections 69-2704 to 69-2711;

(e) The Tax Commissioner shall transmit by email or other practicable means to each stamping agent notice of any removal from the directory of any tobacco product manufacturer or brand family. Unless otherwise provided by agreement between the stamping agent and a tobacco product manufacturer, the stamping agent shall be entitled to a refund from a tobacco product manufacturer for any money paid by the stamping agent to the tobacco product manufacturer for any cigarettes of the tobacco product manufacturer still held by the stamping agent on the date of notice by the Tax Commissioner of the removal from the directory of that tobacco product manufacturer or the brand family or for any cigarettes returned to the stamping agent by its customers under subsection (8) of section 69-2709. The Tax Commissioner shall not restore to the directory the tobacco product manufacturer or the brand family until the tobacco product manufacturer has paid the stamping agent any refund due; and

(f) Every stamping agent shall provide and update as necessary an electronic mail address to the Tax Commissioner for the purpose of receiving any notifications as may be required by sections 69-2704 to 69-2711.

(3) The failure of the Tax Commissioner to provide notice of any intended removal from the directory as required under subdivision (2)(e) of this section or the failure of a stamping agent to receive such notice shall not relieve the stamping agent of its obligations under sections 69-2704 to 69-2711.

(4) It shall be unlawful for any person (a) to affix a Nebraska stamp pursuant to section 77-2603 to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory, (b) to affix a tribal stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory except as authorized by an agreement pursuant to section 77-2602.06, or (c) to sell, offer, or possess for sale in this state cigarettes of a tobacco product manufacturer or brand family in this state not included in the directory.

**Source:** Laws 2003, LB 572, § 3; Laws 2007, LB580, § 1; Laws 2011, LB590, § 7.

Operative date January 1, 2013.

**69-2707 Nonresident or foreign nonparticipating manufacturer; agent for service of process.**

(1) Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in the state as a foreign corporation or business entity shall, as a condition precedent to having its brand families included or retained in the directory created in subsection (2) of section 69-2706, appoint and continually engage without interruption the services of an agent in Nebraska to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of sections 69-2703 to 69-2711, may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the nonparticipat-



ing manufacturer. The nonparticipating manufacturer shall provide the name, address, telephone number, and proof of the appointment and availability of such agent to the Tax Commissioner and Attorney General.

(2) The nonparticipating manufacturer shall provide notice to the Tax Commissioner and Attorney General thirty calendar days prior to termination of the authority of an agent and shall further provide proof to the satisfaction of the Attorney General of the appointment of a new agent no less than five calendar days prior to the termination of an existing agent appointment. In the event an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the Tax Commissioner and Attorney General of the termination within five calendar days and shall include proof to the satisfaction of the Attorney General of the appointment of a new agent.

(3) Any nonparticipating manufacturer whose products are sold in this state who has not appointed and engaged the services of an agent as required by this section shall be deemed to have appointed the Secretary of State as its agent for service of process. The appointment of the Secretary of State as agent shall not satisfy the condition precedent required in subsection (1) of this section to have the nonparticipating manufacturer's brand families included or retained in the directory.

**Source:** Laws 2003, LB 572, § 4; Laws 2007, LB580, § 2; Laws 2011, LB590, § 8.

Operative date January 1, 2013.

**69-2707.01 Nonparticipating manufacturers; bond; amount; failure to make escrow deposits; execution upon bond.**

(1) All nonparticipating manufacturers shall post a bond or its cash equivalent for the benefit of the state which is subject to execution under subsection (3) of this section. The bond shall be posted by corporate surety located within the United States, or the cash equivalent of the bond shall be posted by the nonparticipating manufacturer in an account approved by the state. The bond or its cash equivalent shall be posted and evidence of such posting shall be provided to the Tax Commissioner at least ten days in advance of each calendar quarter as a condition to the nonparticipating manufacturer and its brand families being included in the directory for that quarter.

(2) The amount of the bond shall be determined as follows:

(a) Unless subdivision (c) of this subsection is applicable, for a nonparticipating manufacturer or its affiliates which have been listed on any state's directory for at least three years or for any nonparticipating manufacturer whose sales are authorized pursuant to an agreement under section 77-2602.06, the amount of the bond required shall be twenty-five thousand dollars;

(b) Unless subdivision (c) of this subsection is applicable, for a nonparticipating manufacturer or its affiliates which have not been listed on any state's directory for at least three years, the amount of the bond required shall be fifty thousand dollars; and

(c) For a nonparticipating manufacturer or its affiliates which have failed, in the past three years, to make a full and timely escrow deposit due under section 69-2703, unless the failure was not knowing or intentional and was promptly cured upon notice, or for any nonparticipating manufacturer or its affiliates which were involuntarily removed from any state's directory, unless the remov-

al was determined to have been erroneous or illegal, the amount of the bond required shall be the greater of (i) fifty thousand dollars or (ii) the greatest amount of escrow owed by the nonparticipating manufacturer or its predecessor in any calendar year in Nebraska within the preceding five calendar years.

(3) If a nonparticipating manufacturer that posted a bond has failed to make, or have made on its behalf by an entity with joint and several liability, escrow deposits equal to the full amount owed for a quarter within fifteen days following the due date for the quarter under section 69-2703, the state may execute upon the bond, first to recover delinquent escrow, which amount shall be deposited into a qualified escrow account under section 69-2703, and then to recover civil penalties and costs authorized under such section. Escrow obligations above the amount collected on the bond remain due from that nonparticipating manufacturer and, as provided in subdivision (2)(d) of section 69-2703 and section 69-2708.01, from the importers and stamping agents that sold its cigarettes during that calendar quarter.

**Source:** Laws 2011, LB590, § 9.

Operative date January 1, 2013.

**69-2708 Stamping agent; duties; Tax Commissioner; Attorney General; powers.**

(1) Not later than fifteen days following the end of each month, each stamping agent shall submit, in the manner directed by the Tax Commissioner, such information as the Tax Commissioner requires to facilitate compliance with sections 69-2704 to 69-2711, including, but not limited to (a) a list by brand family of the total number of cigarettes or, in the case of roll-your-own, the equivalent stick count for which the stamping agent affixed stamps during the previous month or otherwise paid the total due for such cigarettes, the total number of cigarettes contained in the packages to which it affixed each respective type of stamp, and by name and number of cigarettes, the tobacco product manufacturers and brand families of the packages to which it affixed each respective type of stamp or similar information for roll-your-own on which tax was paid and (b) the total number of cigarettes acquired by the stamping agent during that month for sale in or into the state or for sale from this state into another state, sold in or into the state by the stamping agent during that month and held in inventory in the state or for sale into the state by the stamping agent as of the last business day of that month, in each case identifying by name and number of cigarettes, (i) the manufacturers of those cigarettes and (ii) the brand families of those cigarettes. In the case of a stamping agent that is a retailer, reports under subdivision (1)(a) of this section do not have to include cigarettes contained in packages that bore a stamp required under section 77-2603 or 77-2603.01 at the time the stamping agent received them and that the stamping agent then sold at retail. The stamping agent shall also submit a certification stating that the information provided to the Tax Commissioner is complete and accurate. The stamping agent shall maintain, and make available to the Tax Commissioner, all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the Tax Commissioner for a period of five years. The Tax Commissioner may share the information reported under this section with the taxing or law enforcement authorities of this state or other states. The Tax Commissioner may also share with a nonparticipating

manufacturer information reported under this section pertaining to such nonparticipating manufacturer's cigarettes.

(2) The Attorney General may require at any time from the nonparticipating manufacturer proof, from the financial institution in which such manufacturer has established a qualified escrow fund for the purpose of compliance with section 69-2703, of the amount of money in such fund, exclusive of interest, the amounts and dates of each deposit to such fund, and the amounts and dates of each withdrawal from such fund.

(3) In addition to the information required to be submitted pursuant to subsection (1) of this section, the Tax Commissioner or Attorney General may require a stamping agent, distributor, or tobacco product manufacturer to submit any additional information, including, but not limited to, samples of the packaging or labeling of each brand family, as is necessary to enable the Tax Commissioner or Attorney General to determine whether a tobacco product manufacturer is in compliance with sections 69-2704 to 69-2711.

(4) The Tax Commissioner or the Attorney General may require production of information sufficient to enable the Tax Commissioner or Attorney General to determine the adequacy of the amount of a quarterly escrow deposit under subdivision (2) of section 69-2703. The Tax Commissioner may adopt and promulgate rules and regulations implementing how tobacco product manufacturers subject to subdivision (2) of section 69-2703 make quarterly payments.

**Source:** Laws 2003, LB 572, § 5; Laws 2007, LB580, § 3; Laws 2011, LB590, § 10.

Operative date January 1, 2013.

**69-2708.01 Stamping agent; responsible for escrow deposits; when; liability; calculation.**

(1) A stamping agent shall be responsible for escrow deposits required under subdivision (2) of section 69-2703 in the event it receives notice from the Attorney General that there is a shortfall amount with respect to nonparticipating manufacturer cigarettes stamped by it.

(2) The liability of a stamping agent for escrow deposits shall be calculated as follows: If there is a shortfall amount for a nonparticipating manufacturer for a calendar quarter, each stamping agent that sold cigarettes of that nonparticipating manufacturer during the calendar quarter shall deposit into such escrow account as shall be designated by the state an amount equal to the applicable shortfall amount multiplied by a fraction, the numerator of which is the number of cigarettes of that nonparticipating manufacturer sold in or into the state by the stamping agent during that calendar quarter and the denominator of which is the total number of cigarettes of that nonparticipating manufacturer sold by all stamping agents in or into the state during that calendar quarter, except that any nonparticipating manufacturer cigarettes sold in or into the state by a stamping agent during the calendar quarter in which the stamping agent collected and deposited the required escrow deposit amount on or before the due date for deposits for that quarter under subdivision (2) of section 69-2703 shall be excluded from both the numerator and the denominator of the fraction. To the extent a stamping agent makes payments with respect to a shortfall amount under this subsection, such stamping agent shall have a claim against the nonparticipating manufacturer for such amount.

(3) A stamping agent shall not be liable for escrow deposits under subsections (1) and (2) of this section if, at the time of purchase of such nonparticipating manufacturer's cigarettes:

(a) The nonparticipating manufacturer is on the directory pursuant to section 69-2706; and

(b) The state denotes on the directory that the nonparticipating manufacturer has posted the appropriate bond required under section 69-2707.01.

**Source:** Laws 2011, LB590, § 11.

Operative date January 1, 2013.

**69-2709 Revocation or suspension of stamping agent license; civil penalty; termination of license; grounds; violations; penalties; effect of termination; eligibility for reinstatement; directory license; termination; procedure; contraband; actions to enjoin; criminal penalty; remedies cumulative.**

(1) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent has violated subsection (4) of section 69-2706 or any rule or regulation adopted and promulgated pursuant thereto, the Tax Commissioner may revoke or suspend the license of any stamping agent in the manner provided by section 77-2615.01. For each violation of subsection (4) of section 69-2706 or the rules and regulations, the Tax Commissioner may also impose a civil penalty in an amount not to exceed the greater of five hundred percent of the retail value of the cigarettes or five thousand dollars upon a determination of violation of subsection (4) of section 69-2706 or any rules or regulations adopted and promulgated pursuant thereto. Such penalty shall be imposed in the manner provided by section 77-2615.01.

(2) The license of a stamping agent shall be subject to termination if the stamping agent:

(a) Fails to provide a report required under section 69-2708, 69-2710.01, or 77-2604.01;

(b) Files an incomplete or inaccurate report required under section 69-2708, 69-2710.01, or 77-2604.01 or files an inaccurate certification required under section 69-2708, subsection (2) of section 77-2603, or section 69-2710.01;

(c) Fails to pay taxes as provided in section 77-2602 or deposit escrow as provided in section 69-2708.01;

(d) Sells cigarettes in or into the state in a package that bears a stamp required under section 77-2603 or 77-2603.01 that is not the correct stamp and provides for a lower level of tax than the correct stamp;

(e) Sells unstamped cigarettes in, into, or from the state or possesses unstamped cigarettes in the state except as provided in section 77-2607;

(f) Purchases, sells in or into the state, or affixes a stamp to a package containing cigarettes of a manufacturer or brand family that is not at the time listed in the directory, or possesses such cigarettes more than ten days after receiving notice that the manufacturer or brand family is not in the directory, unless such stamping agent possesses a directory license under section 77-2603 or unless expressly permitted under sections 69-2701 to 69-2711 or sections 77-2601 to 77-2622; or

(g) Purchases or sells cigarettes in violation of subsection (5) of this section or section 69-2710.02.

(3) In the case of a violation under subdivision (2)(a), (b), (c), or (d) of this section that was not knowing or intentional, the stamping agent shall be entitled to cure the violation within ten days after receipt of notice of such violation. The license of a stamping agent that fully cures the violation during that period shall not be terminated on account of that violation.

(4) In the case of a knowing or intentional violation under subdivision (2)(a), (b), (c), or (d) of this section, or of any violation described in subdivision (2)(e) or (f) of this section, the stamping agent shall for a first violation be subject to a civil penalty of up to one thousand dollars and be guilty of a Class IV misdemeanor and for a second or subsequent violation be subject to a civil penalty of up to five thousand dollars per violation and be guilty of a Class II misdemeanor. In the case of violations described in subdivision (2)(d), (e), or (f) of this section, each sale constitutes a separate offense.

(5) The Tax Commissioner shall promptly remove any stamping agent whose license is terminated from the list required by subsection (4) of section 77-2603 and shall publish a notice of the termination on the Tax Commissioner's web site and send notice of the termination to all stamping agents and to all persons listed in the directory. Beginning ten days following the publication and sending of such notice, no person may sell cigarettes to, or purchase cigarettes from, the stamping agent whose license has been terminated.

(6) If a stamping agent whose license has been terminated is a tobacco product manufacturer, the tobacco product manufacturer and its brand families shall be removed from the directory.

(7) A stamping agent whose license is terminated shall be eligible for reinstatement:

(a) Ninety days following the termination, in the case of a first failure under subdivision (2)(a), (b), (c), or (d) of this section that was not knowing or intentional;

(b) One hundred eighty days following the termination, in the case of a second failure under subdivision (2)(a), (b), (c), or (d) of this section that was not knowing or intentional;

(c) One year following the termination, in the case of a third or subsequent failure under subdivision (2)(a), (b), (c), or (d) of this section that was not knowing or intentional;

(d) One year following the termination, in the case of a first knowing or intentional failure under subdivision (2)(a), (b), (c), or (d) of this section or a first violation described in subdivision (2)(e), (f), or (g) of this section; and

(e) Three years following the termination, in the case of a second or subsequent knowing or intentional failure under subdivision (2)(a), (b), (c), or (d) of this section or a second or subsequent violation described in subdivision (2)(e), (f), or (g) of this section.

(8) Any cigarettes that have been sold, offered for sale, or possessed for sale in this state in violation of subsection (4) of section 69-2706 shall be deemed contraband under section 77-2620 and such cigarettes shall be subject to seizure and forfeiture as provided in section 77-2620, except that all such cigarettes so seized and forfeited shall be destroyed and not resold. The stamping agent shall notify its customers for a brand family with regard to any notice of removal of a tobacco product manufacturer or a brand family from

the directory and give its customers a seven-day period for the return of cigarettes that become contraband.

(9) The Attorney General, on behalf of the Tax Commissioner, may seek an injunction to restrain a threatened or actual violation of subsection (4) of section 69-2706 or section 69-2708 by a stamping agent and to compel the stamping agent to comply with subsection (4) of section 69-2706 or section 69-2708. In any action brought pursuant to this section, the state shall be entitled to recover the costs of investigation, costs of the action, and reasonable attorney's fees. This subsection shall not apply to a stamping agent purchasing cigarettes which are not in violation of subsection (4) of section 69-2706 or section 69-2708.

(10) It is unlawful for a person to (a) sell or distribute cigarettes for sale in this state or (b) acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in the state in violation of subsection (4) of section 69-2706. A violation of this subsection is a Class III misdemeanor.

(11) If a court determines that a person has violated any portion of sections 69-2704 to 69-2711, the court shall order the payment of any profits, gains, gross receipts, or other benefits from the violation to be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. Unless otherwise expressly provided, the remedies or penalties provided by sections 69-2704 to 69-2711 are cumulative to each other and to the remedies or penalties available under all applicable laws of this state.

(12) It is unlawful for any manufacturer, importer, or stamping agent to knowingly submit any false information required pursuant to sections 69-2703 to 69-2711. A violation of this subsection is a Class IV felony. Knowing submission of false information shall also be grounds for removal of a tobacco product manufacturer from the directory.

(13) A tobacco product manufacturer that knowingly or intentionally sells cigarettes in violation of subsection (5) of this section or section 69-2710.01 and its brand families shall be removed from the directory.

(14) A nonparticipating manufacturer whose total nationwide reported sales on which federal excise tax is paid exceed the sum of its nationwide reports under 15 U.S.C. 375 et seq. and any intrastate sales reports under 15 U.S.C. 375 et seq. by more than five percent of its total sales or one million cigarettes, whichever is less, shall be subject to removal from the directory unless it cures or satisfactorily explains the discrepancy within ten days after receipt of notice of the discrepancy from the Attorney General pursuant to section 69-2708.01.

(15) Any person that is not a stamping agent or tobacco product manufacturer that fails to file a complete and accurate report required under section 69-2708, 69-2710.01, 77-2604, or 77-2604.01 shall be entitled to cure the failure within ten days after receipt of notice of the discrepancy from the Attorney General pursuant to section 69-2708.01. If the person fails to fully cure the failure within such period, it shall be subject to a civil penalty of up to one thousand dollars per violation and shall be ineligible to hold any license of the state regarding cigarette sales until the date specified by subsection (7) of this section for violations of subdivision (2)(a) of this section.

(16) A directory license shall be subject to termination if the licensee acts inconsistently with its certification under subsection (2) of section 77-2603 or violates sections 69-2701 to 69-2711.

(17) Any person that knowingly or intentionally purchases or sells cigarettes in violation of subsection (5) of this section or section 69-2710.01 or that knowingly or intentionally sells cigarettes in or into the state in a package that bears a stamp required under section 77-2603 or 77-2603.01 that is not the correct stamp and provides for a lower level of tax than the correct stamp shall for a first violation be subject to a civil penalty of up to one thousand dollars and be guilty of a Class IV misdemeanor and for a second or subsequent violation be subject to a civil penalty of up to five thousand dollars per violation and be guilty of a Class II misdemeanor. Each sale constitutes a separate violation.

**Source:** Laws 2003, LB 572, § 6; Laws 2007, LB580, § 4; Laws 2011, LB590, § 12.

Operative date January 1, 2013.

**69-2710 Removal from directory; procedure.**

(1) Before any tobacco product manufacturer may be removed from the directory, the Tax Commissioner shall provide the tobacco product manufacturer thirty days' notice of the intended action and shall post the notice in the directory. The tobacco product manufacturer shall have thirty days to come into compliance with sections 69-2703 to 69-2711 or, in the alternative, secure a temporary injunction against removal in the district court of Lancaster County. For purposes of the temporary injunction sought pursuant to this subsection, loss of the ability to sell tobacco products as a result of removal from the directory shall constitute irreparable harm. If after thirty days the tobacco product manufacturer remains in noncompliance and has not obtained a temporary injunction pursuant to this subsection, the tobacco product manufacturer shall be removed from the directory.

(2) If the Tax Commissioner determines that a tobacco product manufacturer shall not be included in the directory, such manufacturer may request a contested case before the Tax Commissioner under the Administrative Procedure Act. The Tax Commissioner shall notify the tobacco product manufacturer in writing of the determination not to include it in the directory. A request for hearing shall be made within thirty calendar days after the date of the determination that the manufacturer shall not be included in the directory and shall contain the evidence supporting the manufacturer's compliance with sections 69-2703 to 69-2711. The hearing shall be held within sixty days after the request. At the hearing, the Tax Commissioner shall determine whether the tobacco product manufacturer is in compliance with sections 69-2703 to 69-2711 and whether the manufacturer should be listed in the directory. A final decision shall be rendered within thirty days after the hearing. Any decision of the Tax Commissioner may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

**Source:** Laws 2003, LB 572, § 7; Laws 2011, LB590, § 13.

Operative date January 1, 2013.

**Cross References**

**Administrative Procedure Act**, see section 84-920.

**69-2710.01 Report; contents.**

(1) Any person that during a month acquired, purchased, sold, possessed, transferred, transported, or caused to be transported in or into this state cigarettes of a tobacco product manufacturer or brand family that was not in the directory at the time shall, within fifteen days following the end of that month, file a report on a form and in the manner prescribed by the Tax Commissioner and certify to the state that the report is complete and accurate. The report shall contain, in addition to any further information that the Tax Commissioner may reasonably require to assist the Tax Commissioner in enforcing sections 69-2701 to 69-2711 and 77-2601 to 77-2622 and the Tobacco Products Tax Act, the following information:

(a) The total number of those cigarettes, in each case identifying by name and number of cigarettes (i) the manufacturers of those cigarettes, (ii) the brand families of those cigarettes, (iii) in the case of a sale or transfer, the name and address of the recipient of those cigarettes, (iv) in the case of an acquisition or purchase, the name and address of the seller or sender of those cigarettes, and (v) the other states in whose directory the manufacturer and brand family of those cigarettes were listed at the time and whose stamps the person is authorized to affix; and

(b) In the case of acquisition, purchase, or possession, the details of the person's subsequent sale or transfer of those cigarettes, identifying by name and number of cigarettes (i) the brand families of those cigarettes, (ii) the date of the sale or transfer, (iii) the name and address of the recipient, (iv) the number of stamps of each other state that the person affixed to the packages containing those cigarettes during that month, (v) the total number of cigarettes contained in the packages to which it affixed each respective other state's stamp, (vi) the manufacturers and brand families of the packages to which it affixed each respective other state's stamp, and (vii) a certification that it reported each sale or transfer to the taxing authority of the other state by fifteen days following the end of the month in which the sale or transfer was made and attaching a copy of all such reports. If the subsequent sale or transfer is from this state into another state in packages not bearing a stamp of the other state, the report shall also contain the information described in subdivision (2)(c) of section 77-2604.01.

(2) Reports under this section shall be in addition to reports under sections 69-2708, 77-2604, and 77-2604.01.

**Source:** Laws 2011, LB590, § 14.  
Operative date January 1, 2013.

## Cross References

Tobacco Products Tax Act, see section 77-4001.

**69-2710.02 License of stamping agent; termination; grounds; cure; notice; reinstatement; removal from directory; grounds; cure; notice; procedure.**

(1) The license of a stamping agent may be subject to termination if its similar license is terminated in any other state based on acts or omissions that would be grounds for license termination under subsection (2) of section 69-2709, unless the stamping agent demonstrates that its termination in the other state was effected without due process. If a stamping agent's license is terminated in another state for a violation similar to a violation listed in



subdivision (2)(a), (b), (c), or (d) of section 69-2709 that was not knowing or intentional, the stamping agent shall not be subject to license termination if the stamping agent fully cures such violation and provides notice of such cure to the Department of Revenue within ten days after receipt of notice of such violation. A stamping agent whose license is terminated under this subsection shall be eligible for reinstatement upon the earlier of the date specified by subsection (7) of section 69-2709 for the act or omission in question or reinstatement of its license by the other state.

(2) A tobacco product manufacturer and its brand families may be removed from the directory if it is removed from the directory of another state based on acts or omissions that would, if done in this state, be grounds for removal from the directory under section 69-2706, 69-2707, 69-2707.01, or 69-2710 or subsection (6) of section 69-2709, unless the tobacco product manufacturer demonstrates that its removal from the other state's directory was effected without due process, that it fully cured such violation and provided notice of such cure to the Department of Revenue within thirty days after receipt of notice of the violation, or that it secured a temporary injunction against removal from the directory in the district court of Lancaster County. For purposes of a temporary injunction sought pursuant to this subsection, loss of the ability to sell tobacco products as a result of removal from the directory shall constitute irreparable harm. If, after thirty days, the tobacco product manufacturer remains in noncompliance and has not obtained a temporary injunction pursuant to this subsection, the tobacco product manufacturer shall be removed from the directory. A manufacturer that is removed from the directory under this subsection shall be eligible for reinstatement upon the earlier of the date on which it cures the violation or is reinstated to the directory in the other state.

(3) The applicable procedures under section 77-2615.01 shall apply to terminations and removals under this section.

**Source:** Laws 2011, LB590, § 15.  
Operative date January 1, 2013.

#### **69-2710.03 Rules and regulations.**

The Tax Commissioner may adopt and promulgate rules and regulations necessary to effect the purposes of sections 69-2703 to 69-2711.

**Source:** Laws 2011, LB590, § 16.  
Operative date January 1, 2013.

#### **69-2711 Conflict of laws; how treated.**

If a court of competent jurisdiction finds that the provisions of sections 69-2704 to 69-2711 and of sections 69-2702 and 69-2703 conflict and cannot be harmonized, then the provisions of sections 69-2702 and 69-2703 shall control. If sections 69-2704 to 69-2711 or any part of any such sections causes sections 69-2702 and 69-2703 to no longer constitute a Qualifying or Model Statute, as those terms are defined in the Master Settlement Agreement, then that portion of sections 69-2704 to 69-2711 shall not be valid.

**Source:** Laws 2003, LB 572, § 13; Laws 2011, LB590, § 17.  
Operative date January 1, 2013.



## CHAPTER 70

### POWER DISTRICTS AND CORPORATIONS

Article.

10. Nebraska Power Review Board. 70-1001.01 to 70-1015.

#### ARTICLE 10

#### NEBRASKA POWER REVIEW BOARD

Section

70-1001.01. Terms, defined.

70-1013. Electric generation facilities and transmission lines; application; hearing; waiver; appearances; objections; amendments.

70-1014.02. Certified renewable export facilities; approval of application; board; powers and duties; conditional approval; final approval; failure to commence construction; effect; application fee; eminent domain; revocation of certification; procedure; recertification.

70-1015. Suppliers; electric generation facilities and transmission lines; unauthorized construction, acquisition, or service; injunction; violation; actions authorized.

#### **70-1001.01 Terms, defined.**

For purposes of sections 70-1001 to 70-1027, unless the context otherwise requires:

(1) Board means the Nebraska Power Review Board;

(2) Certified renewable export facility means a facility approved under section 70-1014.02 that (a) will generate electricity using solar, wind, biomass, or landfill gas, (b) will be constructed and owned by an entity other than a municipality, a registered group of municipalities, a public power district, a public power and irrigation district, an electric cooperative, an electric membership association, or any other governmental entity, and (c) has a power purchase or similar agreement or agreements with an initial term of ten years or more for the sale of at least ninety percent of the output of the facility with a customer or customers located outside the State of Nebraska and maintains such an agreement or agreements for the life of the facility. Output sold pursuant to subdivision (2)(a)(iv) of section 70-1014.02 shall not be included when calculating such ninety percent. Certified renewable export facility includes all generating equipment, easements, and interconnection equipment within the facility and connecting the facility to the transmission grid;

(3) Except as expressly provided in section 70-1014.02, electric suppliers or suppliers of electricity means any legal entity supplying, producing, or distributing electricity within the state for sale at wholesale or retail;

(4) 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;

(5) 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 capacity of at least ninety percent of the total electric generation plant capacity constructed and in operation within the state;

(6) State means the State of Nebraska;

(7) Stranded asset means a generation or transmission facility owned by an electric supplier as defined in subsection (1) of section 70-1014.02 which cannot earn a favorable economic return due to regulatory or legislative actions or changes in the market and, at the time an application is filed with the board under such section, either exists or has been approved by the board or the governing body of an electric supplier as defined in such subsection; and

(8) 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.  
Effective date August 27, 2011.

**70-1013 Electric generation facilities and transmission lines; application; hearing; waiver; appearances; objections; amendments.**

Upon application being filed under section 70-1012, the board shall fix a time and place for hearing and shall give ten days' notice by mail to such power suppliers as it deems to be affected by the application. The hearing shall be held within sixty days unless for good cause shown the applicant requests in writing that such hearing not be scheduled until a later time, but in any event such hearing shall be held not more than one hundred twenty days after the filing of the application and the board shall give its decision within sixty days after the conclusion of the hearing. Any parties interested may appear, file objections, and offer evidence. The board may grant the application without notice or hearing, upon the filing of such waivers as it may require, if in its judgment the finding required by section 70-1014 or subdivision (2)(a) of section 70-1014.02 can be made without a hearing. Such hearing shall be conducted as provided in section 70-1006. The board may allow amendments to the application, in the interests of justice.

**Source:** Laws 1963, c. 397, § 13, p. 1265; Laws 1967, c. 425, § 1, p. 1301; Laws 2010, LB1048, § 4; Laws 2011, LB208, § 2.  
Effective date August 27, 2011.

**70-1014.02 Certified renewable export facilities; approval of application; board; powers and duties; conditional approval; final approval; failure to commence construction; effect; application fee; eminent domain; revocation of certification; procedure; recertification.**

(1) For purposes of this section:

(a) Electric supplier means a public power district, a public power and irrigation district, an individual municipality, a registered group of municipalities, an electric membership association, or a cooperative; and

(b) Electric supplier does not have the same meaning as in section 70-1001.01.

(2)(a) The board shall conditionally approve an application for a certified renewable export facility if it finds that only the criteria described in subdivisions (a)(i) through (iv) of this subsection are met: (i) The facility will provide reasonably identifiable and quantifiable public benefits, including economic development, to the residents of Nebraska or the local area where the facility will be located; (ii) the facility meets the requirements of subdivisions (2)(a) and (b) of section 70-1001.01; (iii) the facility has a memorandum of understanding or other written evidence of mutual intent to negotiate a power purchase agreement or agreements with a purchaser or purchasers outside the State of Nebraska for at least ninety percent of the output of the facility for ten years or more; and (iv) the applicant offers electric suppliers serving loads greater than fifty megawatts at the time the initial application is filed an option to purchase in the aggregate an amount of power up to ten percent of the output of any facility with greater than eighty megawatts of nameplate capacity contingent upon the applicant and electric suppliers negotiating in good faith a power purchase agreement and any other necessary agreements. Such electric suppliers shall be entitled to a minimum of their pro rata share based on the load ratio share of Nebraska electric load served among those electric suppliers eligible under this subdivision (iv). If an electric supplier declines to contract for some or all of its pro rata share, the remaining eligible electric suppliers may share the balance on a pro rata basis. The ten percent may be above the total generation amount proposed in the application for a certified renewable export facility and shall require no separate approval by the board. Any transmission studies, additions, or upgrades due to participation by electric suppliers serving loads greater than fifty megawatts shall be the responsibility of the participating electric supplier. Upon receiving the initial application under this section, the board shall notify electric suppliers identified in this subdivision (iv) of a pending application with a nameplate capacity greater than eighty megawatts. Such suppliers shall have forty-five days following the date of the board's notice to notify the applicant of an interest in exercising the option to purchase power, except that such suppliers may withdraw their option to purchase power once the costs of the transmission additions and upgrades are determined. Electric suppliers withdrawing their option to purchase power are responsible for their pro rata share of any costs resulting from their participation in and withdrawal from the generation interconnection and transmission delivery studies.

(b) Following the board's conditional approval of an application under subdivision (a) of this subsection, the applicant shall notify the board within eighteen months that it is prepared to proceed to consideration of the criteria in subdivision (c) of this subsection. The board may extend such eighteen-month deadline not more than twelve additional months for good cause shown. If the applicant fails to notify the board within such time that it is so prepared, the conditional approval granted under this subdivision is void.

(c) Upon finding that the criteria described in subdivisions (c)(i) through (viii) of this subsection have also been met by the applicant and after the board has

fulfilled the requirements of subsection (3) of section 37-807, the board shall grant final approval of an application for a certified renewable export facility:

(i) The facility will not have a materially detrimental effect on the retail electric rates paid by any Nebraska ratepayers, except that, notwithstanding subdivisions (c)(v) and (vi) of this subsection, the determination of a materially detrimental effect on rates shall not include regional transmission improvements dictated by a regional transmission operator or transmission improvements required due to participation by an eligible entity pursuant to subdivision (2)(a)(iv) of this section;

(ii) The applicant has obtained the necessary generation interconnection and transmission service approvals from and has executed agreements for such generation interconnection and transmission service with the appropriate regional transmission organization, transmission owner, or transmission provider;

(iii) There has been no demonstration that the proposed facility will result in a substantial risk of creating stranded assets;

(iv) The applicant has certified that it has applied for and is actively pursuing the required approvals from any other federal, state, or local entities with jurisdiction or permitting authority over the certified renewable export facility;

(v) The applicant and the electric supplier owning the transmission facilities to which the certified renewable export facility will be interconnected, along with any electric supplier which owns transmission facilities of one hundred fifteen thousand volts or more and is required to receive notice pursuant to section 70-1013, have entered into a joint transmission development agreement on reasonable terms and conditions consistent with and subject to the notice to construct or other directives of any regional transmission organization with jurisdiction over the addition or upgrade to transmission facilities or, for any electric supplier that is not a member of a regional transmission organization with which the facility will interconnect, covers the addition or upgrade to transmission facilities required as a result of the certified renewable export facility. Such joint transmission development agreement shall include provisions addressing construction, ownership, operation, and maintenance of such additions or upgrades to transmission facilities. The electric supplier or suppliers shall have the right to purchase and own transmission facilities as set forth in the joint transmission development agreement;

(vi) The applicant agrees to reimburse any costs that are not covered by a regional transmission organization tariff or that are allocated through the tariff to the electric suppliers as a result of the certified renewable export facility or not covered by the tariff of a transmission owner or transmission provider that is not a member of a regional transmission organization, costs incurred by any electric supplier as a result of adding the certified renewable export facility, including, but not limited to, renewable integration costs, and costs which allow the interconnected electric supplier to operate and maintain the transmission facilities under reasonable terms and conditions agreed to by the parties within the joint transmission development agreement;

(vii) The applicant shall submit a decommissioning plan. The applicant or owner of the facility shall establish decommissioning security by posting an instrument, a copy of which is given to the board, no later than the tenth year following final approval of the facility to ensure sufficient funding is available for removal of the facility and reclamation at the end of the useful life of such

facility pursuant to the decommissioning plan. The owner of the certified renewable export facility shall be solely responsible for decommissioning. If the applicant or any subsequent owner of the facility intends to transfer ownership of the facility, the proposed new owner shall provide the board with adequate evidence demonstrating that substitute decommissioning security has been posted or given prior to transfer of ownership. The requirements of this subdivision (vii) shall be waived if a local governmental entity with authority to create requirements for decommissioning has enacted decommissioning requirements for the applicable jurisdiction; and

(viii) The facility meets the requirements of subdivisions (2)(a) through (c) of section 70-1001.01.

(3) If the applicant does not commence construction of the certified renewable export facility within eighteen months after receiving final approval from the board under subsection (2) of this section, the approval is void. Upon written request filed by the applicant, the board may, for good cause shown, extend the time period during which an approval will remain valid. Good cause includes, but is not limited to, national or regional economic conditions, lack of transmission infrastructure, or an applicant's inability to obtain authorization from other required governmental regulatory authorities despite the applicant's exercise of a good-faith effort to obtain such approvals.

(4) The applicant shall remit an application fee of five thousand dollars with the application. The fee shall be remitted to the State Treasurer for credit to the Nebraska Power Review Fund. The board shall use the application fee to defray the board's reasonable expenses associated with reviewing and acting upon the application, including the costs of the hearing. If the board incurs expenses of more than five thousand dollars associated with the application, the board shall provide written notification to the applicant of the additional sum needed or already expended, after which the applicant shall promptly submit an additional sum sufficient to cover the board's anticipated or incurred expenses or shall file an objection with the board. If, after completion of the application process and any subsequent legal action, including appeal of the board's decision, the board's expenses associated with processing and acting upon the application do not equal the amount submitted by the applicant, the board shall return the unused funds to the applicant if the amount is fifty dollars or more. The applicant shall reimburse the board for any reasonable expenses the board incurs as a result of an appeal of the board's decision or shall file an objection with the board. The board shall rule on any objection brought pursuant to this subsection within thirty days. The applicant may request a hearing on its objection, in which case the board shall hold such hearing within thirty days after the request and shall rule within forty-five days after the hearing.

(5) No facility or part of a facility which is a certified renewable export facility is subject to eminent domain by an electric supplier or by any other entity if the purpose of the eminent domain proceeding is to acquire the facility for electric generation or transmission.

(6) Except as provided in subsection (5) of this section, only an electric supplier may exercise its eminent domain authority to acquire the land rights necessary for the construction of transmission lines and related facilities to provide transmission services for a certified renewable export facility. The exercise of eminent domain to provide needed transmission lines and related facilities for a certified renewable export facility is a public use. Nothing in this

section shall be construed to grant the power of eminent domain to a private entity.

(7) If any transmission facilities serving a certified renewable export facility are proposed to cross the service area of any electric supplier which owns transmission facilities of one hundred fifteen thousand volts or more and is required to receive notice pursuant to section 70-1013, then such electric supplier may elect to be a party to a joint transmission development agreement for such transmission facilities.

(8) If a certified renewable export facility no longer meets the requirements of subdivisions (2)(a) through (c) of section 70-1001.01, the owner of the facility shall notify the board. An electric supplier or a governmental entity with regulatory jurisdiction over the certified renewable export facility may apply to the board or the board may file its own motion to have the certification of a certified renewable export facility revoked upon a showing by the applicant for decertification that the facility no longer meets the requirements of such subdivisions. Upon the filing of such application and making of a prima facie showing by the applicant for decertification that the facility no longer meets the requirements of such subdivisions, the board shall set the matter for hearing. The hearing shall be held within forty-five days unless an extension is necessary for good cause shown. The applicant for decertification shall have the burden of proof. Within forty-five days after the conclusion of the hearing, the board shall enter an order to either reaffirm the facility's status as a certified renewable export facility or to revoke the certification. During the pendency of the application for decertification and before the board's final order on decertification, the facility may continue to operate if the electricity generated at the facility is sold to customers outside the State of Nebraska, or to an electric supplier pursuant to a power purchase agreement or similar agreement. The board shall retain jurisdiction over the decertification action for at least thirty days after entry of such an order. Within thirty days after a final order revoking certification, the owner of the facility may apply for recertification, with the time period for recertification being no longer than one year unless the board extends the time period for good cause shown. Such application for recertification shall extend the board's jurisdiction over the decertification action until the board completes its review of the application for recertification and enters an order granting or denying the application. If the applicant for recertification demonstrates to the board that it is working diligently and in good faith to restore its compliance with subdivisions (2)(a) through (c) of section 70-1001.01, the board shall not terminate the application for recertification. During the pendency of the application for recertification and before the board's final order on recertification, the facility may continue to operate if the electricity generated at the facility is sold to customers outside the state, or to an electric supplier pursuant to a power purchase agreement or similar agreement. If the board retains jurisdiction over the decertification action, the prohibition on eminent domain set forth in subsection (5) of this section shall remain in full force and effect. If the board enters an order decertifying a certified renewable export facility and such order becomes final due to a failure to timely seek recertification or judicial review, the prohibition on eminent domain set forth in subsection (5) of this section shall no longer apply. Nothing in this section shall prohibit a decertified facility from being recertified in the same manner as a new facility.

**Source:** Laws 2010, LB1048, § 6; Laws 2011, LB208, § 3.  
Effective date August 27, 2011.



**70-1015 Suppliers; electric generation facilities and transmission lines; unauthorized construction, acquisition, or service; injunction; violation; actions authorized.**

(1) If any supplier commences the construction or finalizes or attempts to finalize the acquisition of any generation facilities, any transmission lines, or any related facilities, or any customers are served in violation of the provisions of Chapter 70, article 10, such construction, acquisition, or service of such customers shall be enjoined in an action brought in the name of the State of Nebraska until such supplier has complied with the provisions of Chapter 70, article 10.

(2) If any person owning or operating a certified renewable export facility violates any provision of Chapter 70, article 10, or violates or disobeys any requirement imposed by the board pursuant to the board's jurisdiction established in section 70-1014.02 or the board enters an order decertifying the facility and the order becomes final, further operation of the facility may be enjoined or otherwise limited or have conditions put upon it in an action brought in the name of the State of Nebraska until such person rectifies the violation or disobedience of the order or the facility becomes recertified.

**Source:** Laws 1963, c. 397, § 15, p. 1265; Laws 1967, c. 426, § 1, p. 1302; Laws 1981, LB 181, § 52; Laws 2011, LB208, § 4.  
Effective date August 27, 2011.



## CHAPTER 71

### PUBLIC HEALTH AND WELFARE

#### Article.

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#### ARTICLE 2

#### PRACTICE OF BARBERING

#### Section

- 71-202.01. Terms, defined.
- 71-208.01. School or college of barbering; payment of wages, commissions, or gratuities forbidden; operation of barber shop in connection with school or college, prohibited.

#### **71-202.01 Terms, defined.**

For purposes of the Barber Act, unless the context otherwise requires:

- (1) Barber shall mean any person who engages in the practice of any act of barbering;
- (2) Barber pole shall mean a cylinder or pole with alternating stripes of red, white, and blue or any combination of them which run diagonally along the length of the cylinder or pole;

(3) Barber shop shall mean an establishment or place of business properly licensed as required by the act where one or more persons properly licensed are engaged in the practice of barbering but shall not include barber schools or colleges;

(4) Barber school or college shall mean an establishment properly licensed and operated for the teaching and training of barber students;

(5) Board shall mean the Board of Barber Examiners;

(6) Manager shall mean a licensed barber having control of the barber shop and of the persons working or employed therein;

(7) License shall mean a certificate of registration issued by the board;

(8) Barber instructor shall mean a teacher of the barber trade as provided in the act;

(9) Assistant barber instructor shall mean a teacher of the barbering trade registered as an assistant barber instructor as required by the act;

(10) Registered or licensed barber shall mean a person who has completed the requirements to receive a certificate as a barber and to whom a certificate has been issued;

(11) Secretary of the board shall mean the director appointed by the board who shall keep a record of the proceedings of the board; and

(12) Student shall mean a person attending an approved, licensed barber school or college, duly registered with the board as a student engaged in learning and acquiring any and all of the practices of barbering, and who, while learning, performs and assists any of the practices of barbering in a barber school or college.

**Source:** Laws 1971, LB 1020, § 5; Laws 1978, LB 722, § 3; Laws 1983, LB 87, § 15; Laws 1993, LB 226, § 3; Laws 2011, LB46, § 1. Effective date August 27, 2011.

**71-208.01 School or college of barbering; payment of wages, commissions, or gratuities forbidden; operation of barber shop in connection with school or college, prohibited.**

No school or college of barbering shall be approved by the Board of Barber Examiners which shall pay any wages, commissions, or gratuities of any kind to barber students for barber work while in training or while enrolled as students in such school or college. No barber shop shall be operated by or in connection with any barber school or college.

**Source:** Laws 1945, c. 166, § 1(2), p. 533; Laws 1957, c. 294, § 4, p. 1054; Laws 1971, LB 1020, § 10; Laws 2011, LB46, § 2. Effective date August 27, 2011.

**ARTICLE 4**

**HEALTH CARE FACILITIES**

Section

71-401. Act, how cited.

71-448. License; disciplinary action; grounds.

71-466. Religious residential facility; exemption from licensure and regulation.

71-467. General acute hospital; employees; influenza vaccinations; duties; record.

**71-401 Act, how cited.**

Sections 71-401 to 71-467 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.  
Effective date August 27, 2011.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB34, section 1, with LB542, section 1, to reflect all amendments.

**71-448 License; disciplinary action; grounds.**

The Division of Public Health of the Department of Health and Human Services may take disciplinary action against a license issued under the Health Care Facility Licensure Act on any of the following grounds:

(1) Violation of any of the provisions of the Assisted-Living Facility Act, the Health Care Facility Licensure Act, the Nebraska Nursing Home Act, or the rules and regulations adopted and promulgated under such acts;

(2) Committing or permitting, aiding, or abetting the commission of any unlawful act;

(3) Conduct or practices detrimental to the health or safety of a person residing in, served by, or employed at the health care facility or health care service;

(4) A report from an accreditation body or public agency sanctioning, modifying, terminating, or withdrawing the accreditation or certification of the health care facility or health care service;

(5) Failure to allow an agent or employee of the Department of Health and Human Services access to the health care facility or health care service for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of the Department of Health and Human Services;

(6) Discrimination or retaliation against a person residing in, served by, or employed at the health care facility or health care service who has submitted a complaint or information to the Department of Health and Human Services;

(7) Discrimination or retaliation against a person residing in, served by, or employed at the health care facility or health care service who has presented a grievance or information to the office of the state long-term care ombudsman;

(8) Failure to allow a state long-term care ombudsman or an ombudsman advocate access to the health care facility or health care service for the purposes of investigation necessary to carry out the duties of the office of the state long-term care ombudsman as specified in the rules and regulations adopted and promulgated by the Department of Health and Human Services;

(9) Violation of the Emergency Box Drug Act;

(10) Failure to file a report required by section 38-1,127 or 71-552;

(11) Violation of the Medication Aide Act;

(12) Failure to file a report of suspected abuse or neglect as required by sections 28-372 and 28-711; or

(13) Violation of the Automated Medication Systems Act.

**Source:** Laws 2000, LB 819, § 48; Laws 2004, LB 1005, § 44; Laws 2007, LB296, § 373; Laws 2007, LB463, § 1181; Laws 2008, LB308, § 12; Laws 2011, LB591, § 4.  
Effective date August 27, 2011.

**Cross References**

**Assisted-Living Facility Act**, see section 71-5901.

**Automated Medication Systems Act**, see section 71-2444.

**Emergency Box Drug Act**, see section 71-2410.

**Medication Aide Act**, see section 71-6718.

**Nebraska Nursing Home Act**, see section 71-6037.

**71-466 Religious residential facility; exemption from licensure and regulation.**

Any facility which is used as a residence by members of an organization, association, order, or society organized and operated for religious purposes, which is not operated for financial gain or profit for the organization, association, order, or society, and which serves as a residence only for such members who in the exercise of their duties in the organization, association, order, or society are required to participate in congregant living within such a facility is exempt from the provisions of the Health Care Facility Licensure Act relating to licensure or regulation of assisted-living facilities, intermediate care facilities, and nursing facilities.

**Source:** Laws 2011, LB34, § 2.  
Effective date August 27, 2011.

**71-467 General acute hospital; employees; influenza vaccinations; duties; record.**

(1) Each general acute hospital shall take all of the following actions in accordance with the guidelines of the Centers for Disease Control and Prevention of the United States Public Health Service of the United States Department of Health and Human Services as the guidelines existed on January 1, 2011:

(a) Annually offer onsite influenza vaccinations to all hospital employees when no national vaccine shortage exists; and

(b) Require all hospital employees to be vaccinated against influenza, except that an employee may elect not to be vaccinated.

(2) The hospital shall keep a record of which employees receive the annual vaccination against influenza and which employees do not receive such vaccination.

**Source:** Laws 2011, LB542, § 2.  
Effective date August 27, 2011.

**ARTICLE 5**

**DISEASES**

(e) IMMUNIZATION AND VACCINES

Section

71-529. Statewide immunization action plan; department; powers.

(h) EXCHANGE OF IMMUNIZATION INFORMATION

71-539. Legislative intent.

## Section

- 71-540. Immunization information; nondisclosure.  
 71-541. Immunization information system; immunization information; access; fee.  
 71-541.01. Immunization information system; established; purpose; access to records authorized.  
 71-542. Immunization information system; immunization information; confidentiality; violation; penalty.  
 71-543. Rules and regulations.  
 71-544. Immunity.
- (k) SYNDROMIC SURVEILLANCE PROGRAM
- 71-552. Syndromic surveillance program; development; department set standards for reporting by hospitals; additional powers of department; use, confidentiality, and immunity; failure to make report; grounds for discipline.

## (e) IMMUNIZATION AND VACCINES

**71-529 Statewide immunization action plan; department; powers.**

The Department of Health and Human Services may participate in the national efforts described in sections 71-527 and 71-528 and may develop a statewide immunization action plan which is comprehensive in scope and reflects contributions from a broad base of providers and consumers. In order to implement the statewide immunization action plan, the department may:

(1) Actively seek the participation and commitment of the public, health care professionals and facilities, the educational community, and community organizations in a comprehensive program to ensure that the state's children are appropriately immunized;

(2) Apply for and receive public and private awards to purchase vaccines and to administer a statewide comprehensive program;

(3) Provide immunization information and education to the public, parents, health care providers, and educators to establish and maintain a high level of awareness and demand for immunization by parents;

(4) Assist parents, health care providers, and communities in developing systems, including demonstration and pilot projects, which emphasize well-child care and the use of private practitioners and which improve the availability of immunization and improve management of immunization delivery so as to ensure the adequacy of the vaccine delivery system;

(5) Evaluate the effectiveness of these statewide efforts, conduct ongoing measurement of children's immunization status, identify children at special risk for deficiencies in immunization, and report on the activities of the statewide immunization program annually to the Legislature and the citizens of Nebraska;

(6) Recognize persons who volunteer their efforts towards achieving the goal of providing immunization of the children of Nebraska and in meeting the Healthy People 2000 objective of series-complete immunization coverage for ninety percent or more of United States children by their second birthday;

(7) Establish a statewide program to immunize Nebraska children from birth up to six years of age against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, tetanus, hepatitis B, and haemophilus influenzae type B. The program shall serve children who are not otherwise eligible for childhood immunization coverage with medicaid or other federal funds or are not covered by private third-party payment; and

(8) Contract to provide vaccine under the statewide program authorized under subdivision (7) of this section without cost to health care providers subject to the following conditions:

(a) In order to receive vaccine without cost, health care providers shall not charge for the cost of the vaccine. Health care providers may charge a fee for the administration of the vaccine but may not deny service because of the parent's or guardian's inability to pay such fee. Fees for administration of the vaccine shall be negotiated between the department and the health care provider, shall be uniform among participating providers, and shall be no more than the cost ceiling for the region in which Nebraska is included as set by the Secretary of the United States Department of Health and Human Services for the Vaccines for Children Program authorized by the Omnibus Budget Reconciliation Act of 1993;

(b) Health care providers shall administer vaccines according to the schedule recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention or by the American Academy of Pediatrics unless in the provider's medical judgment, subject to accepted medical practice, such compliance is medically inappropriate; and

(c) Health care providers shall maintain records on immunizations as prescribed by this section for inspection and audit by the Department of Health and Human Services or the Auditor of Public Accounts, including responses by parents or guardians to simple screening questions related to payment coverage by public or private third-party payors, identification of the administration fee as separate from any other cost charged for other services provided at the same time the vaccination service is provided, and other information as determined by the department to be necessary to comply with subdivision (5) of this section. Such immunization records may also be used for information exchange as provided in sections 71-539 to 71-544.

**Source:** Laws 1992, LB 431, § 4; Laws 1994, LB 1223, § 32; Laws 1996, LB 1044, § 508; Laws 1998, LB 1063, § 17; Laws 2005, LB 301, § 20; Laws 2007, LB296, § 396; Laws 2011, LB591, § 5.  
Effective date August 27, 2011.

(h) EXCHANGE OF IMMUNIZATION INFORMATION

**71-539 Legislative intent.**

It is the intent of the Legislature that sections 71-539 to 71-544 provide for the exchange of immunization information between health care professionals, health care facilities, health care services, schools, postsecondary educational institutions, licensed child care facilities, electronic health-record systems, public health departments, health departments of other states, Indian health services, and tribes for the purpose of protecting the public health by facilitating age-appropriate immunizations which will minimize the risk of outbreak of vaccine-preventable diseases.

**Source:** Laws 1998, LB 1063, § 11; Laws 2011, LB591, § 6.  
Effective date August 27, 2011.

**71-540 Immunization information; nondisclosure.**

All immunization information may be shared with the Department of Health and Human Services and entered into the central data base created pursuant to



section 71-541.01. A patient or, if the patient is a minor, the patient's parent or legal guardian may deny access under sections 71-539 to 71-544 to the patient's immunization information by signing a nondisclosure form with the professional or entity which provided the immunization and with the department. The nondisclosure form shall be kept with the immunization information of the patient, and such immunization information is considered restricted immunization information.

**Source:** Laws 1998, LB 1063, § 12; Laws 2011, LB591, § 8.  
Effective date August 27, 2011.

**71-541 Immunization information system; immunization information; access; fee.**

Any person or entity authorized under section 71-541.01 to access immunization information in the immunization information system established pursuant to section 71-541.01 may access such information pursuant to rules and regulations of the Department of Health and Human Services for purposes of direct patient care, public health activities, or enrollment in school or child care services. The unrestricted immunization information shared may include, but is not limited to, the patient's name and date of birth, the dates and vaccine types administered, and any immunization information obtained from other sources. A person or entity listed in section 71-539 which provides immunization information to a licensed child care program, a school, or a postsecondary educational institution may charge a reasonable fee to recover the cost of providing such immunization information.

**Source:** Laws 1998, LB 1063, § 13; Laws 2000, LB 1115, § 25; Laws 2005, LB 256, § 34; Laws 2007, LB296, § 398; Laws 2011, LB591, § 9.  
Effective date August 27, 2011.

**71-541.01 Immunization information system; established; purpose; access to records authorized.**

The Department of Health and Human Services shall establish an immunization information system for the purpose of providing a central data base of immunization information which can be accessed pursuant to rules and regulations of the department by any person or entity listed in section 71-539, by a patient, and by a patient's parent or legal guardian if the patient is a minor or under guardianship. In order to facilitate operation of the immunization information system, the department shall provide the system with access to all records of the department, including, but not limited to, vital records.

**Source:** Laws 2011, LB591, § 7.  
Effective date August 27, 2011.

**71-542 Immunization information system; immunization information; confidentiality; violation; penalty.**

Immunization information in the immunization information system established pursuant to section 71-541.01 is confidential, and unrestricted immunization information may only be accessed pursuant to rules and regulations of

the Department of Health and Human Services. Unauthorized public disclosure of such confidential information is a Class III misdemeanor.

**Source:** Laws 1998, LB 1063, § 14; Laws 2004, LB 1005, § 54; Laws 2011, LB591, § 10.

Effective date August 27, 2011.

#### **71-543 Rules and regulations.**

The Department of Health and Human Services may adopt and promulgate rules and regulations to implement sections 71-539 to 71-544, including procedures and methods for and limitations on access to and security and confidentiality of the immunization information.

**Source:** Laws 1998, LB 1063, § 15; Laws 2007, LB296, § 399; Laws 2011, LB591, § 11.

Effective date August 27, 2011.

#### **71-544 Immunity.**

Any person who receives or releases immunization information in the form and manner prescribed in sections 71-539 to 71-544 and any rules and regulations which may be adopted and promulgated pursuant to sections 71-539 to 71-544 is not civilly or criminally liable for such receipt or release.

**Source:** Laws 1998, LB 1063, § 16; Laws 2011, LB591, § 12.

Effective date August 27, 2011.

### (k) SYNDROMIC SURVEILLANCE PROGRAM

**71-552 Syndromic surveillance program; development; department set standards for reporting by hospitals; additional powers of department; use, confidentiality, and immunity; failure to make report; grounds for discipline.**

(1) For purposes of protecting the public health and tracking the impact of disease prevention strategies intended to lower the cost of health care, the Department of Health and Human Services shall develop a syndromic surveillance program that respects patient privacy and benefits from advances in both electronic health records and electronic health information exchange. The syndromic surveillance program shall include the monitoring, detection, and investigation of public health threats from (a) intentional or accidental use or misuse of chemical, biological, radiological, or nuclear agents, (b) clusters or outbreaks of infectious or communicable diseases, and (c) noninfectious causes of illness.

(2) The department shall adopt and promulgate rules and regulations setting standards for syndromic surveillance reporting by hospitals. The standards shall specify (a) the syndromic surveillance data elements required to be reported for all encounters, which shall include at a minimum the date of the encounter and the patient's gender, date of birth, chief complaint or reason for encounter, home zip code, unique record identifier, and discharge diagnoses and (b) the manner of reporting.

(3) The department may require, by rule and regulation, syndromic surveillance reporting by other health care facilities or any person issued a credential by the department.

(4) The department shall establish, by rule and regulation, a schedule for the implementation of full electronic reporting of all syndromic surveillance data elements. The schedule shall take into consideration the number of data elements already reported by the facility or person, the capacity of the facility or person to electronically report the remaining elements, the funding available for implementation, and other relevant factors, including improved efficiencies and resulting benefits to the reporting facility or person.

(5) The use, confidentiality, and immunity provisions of section 71-503.01 apply to syndromic surveillance data reports.

(6) Failure to provide a report under this section or the rules and regulations is grounds for discipline of a credential issued by the department.

**Source:** Laws 2011, LB591, § 1.

Effective date August 27, 2011.

## ARTICLE 9

### NEBRASKA MENTAL HEALTH COMMITMENT ACT

#### Section

71-901. Act, how cited.

71-903. Definitions, where found.

71-904.01. Firearm-related disability, defined.

71-915. Mental health boards; created; powers; duties; compensation.

71-963. Firearm-related disabilities; petition to remove; mental health board; review hearing; evidence; decision; appeal; petition granted; effect.

#### **71-901 Act, how cited.**

Sections 71-901 to 71-963 shall be known and may be cited as the Nebraska Mental Health Commitment Act.

**Source:** Laws 1976, LB 806, § 89; Laws 1988, LB 257, § 6; Laws 1994, LB 498, § 12; Laws 1996, LB 1155, § 116; R.S.1943, (1999), § 83-1078; Laws 2004, LB 1083, § 21; Laws 2011, LB512, § 5. Operative date January 1, 2012.

#### **71-903 Definitions, where found.**

For purposes of the Nebraska Mental Health Commitment Act, unless the context otherwise requires, the definitions found in sections 71-904 to 71-914 shall apply.

**Source:** Laws 1976, LB 806, § 2; Laws 1994, LB 498, § 4; R.S.1943, (1999), § 83-1002; Laws 2004, LB 1083, § 23; Laws 2011, LB512, § 6.

Operative date January 1, 2012.

#### **71-904.01 Firearm-related disability, defined.**

Firearm-related disability means a person is not permitted to (1) purchase, possess, ship, transport, or receive a firearm under either state or federal law, (2) obtain a certificate to purchase, lease, rent, or receive transfer of a handgun under section 69-2404, or (3) obtain a permit to carry a concealed handgun under the Concealed Handgun Permit Act.

**Source:** Laws 2011, LB512, § 7.

Operative date January 1, 2012.

## Cross References

Concealed Handgun Permit Act, see section 69-2427.

**71-915 Mental health boards; created; powers; duties; compensation.**

(1) The presiding judge in each district court judicial district shall create at least one but not more than three mental health boards in such district and shall appoint sufficient members and alternate members to such boards. Members and alternate members of a mental health board shall be appointed for four-year terms. The presiding judge may remove members and alternate members of the board at his or her discretion. Vacancies shall be filled for the unexpired term in the same manner as provided for the original appointment. Members of the mental health board shall have the same immunity as judges of the district court.

(2) Each mental health board shall consist of an attorney licensed to practice law in this state and any two of the following but not more than one from each category: A physician, a psychologist, a psychiatric nurse, a licensed clinical social worker or a licensed independent clinical social worker, a licensed independent mental health practitioner who is not a social worker, or a layperson with a demonstrated interest in mental health and substance dependency issues. The attorney shall be chairperson of the board. Members and alternate members of a mental health board shall take and subscribe an oath to support the United States Constitution and the Constitution of Nebraska and to faithfully discharge the duties of the office according to law.

(3) The mental health board shall have the power to issue subpoenas, to administer oaths, and to do any act necessary and proper for the board to carry out its duties. No mental health board hearing shall be conducted unless three members or alternate members are present and able to vote. Any action taken at any mental health board hearing shall be by majority vote.

(4) The mental health board shall prepare and file an annual inventory statement with the county board of its county of all county personal property in its custody or possession. Members of the mental health board shall be compensated and shall be reimbursed for their actual and necessary expenses by the county or counties being served by such board. Compensation shall be at an hourly rate to be determined by the presiding judge of the district court, except that such compensation shall not be less than fifty dollars for each hearing of the board. Members shall also be reimbursed for their actual and necessary expenses, not including charges for meals. Mileage shall be determined pursuant to section 23-1112.

**Source:** Laws 1976, LB 806, § 27; Laws 1981, LB 95, § 7; Laws 1990, LB 822, § 39; Laws 1994, LB 498, § 6; R.S.1943, (1999), § 83-1017; Laws 2004, LB 1083, § 35; Laws 2011, LB111, § 1.  
Effective date August 27, 2011.

**71-963 Firearm-related disabilities; petition to remove; mental health board; review hearing; evidence; decision; appeal; petition granted; effect.**

(1) Upon release from commitment or treatment, a person who, because of a mental health-related commitment or adjudication occurring under the laws of this state, is subject to the disability provisions of 18 U.S.C. 922(d)(4) and (g)(4) or is disqualified from obtaining a certificate to purchase, lease, rent, or receive transfer of a handgun under section 69-2404 or a permit to carry a concealed

handgun under the Concealed Handgun Permit Act may petition the mental health board to remove such disabilities.

(2)(a) Upon the filing of the petition, the subject may request and, if the request is made, shall be entitled to, a review hearing by the mental health board. The mental health board shall grant a petition filed under subsection (1) of this section if the mental health board determines that:

(i) The subject will not be likely to act in a manner dangerous to public safety; and

(ii) The granting of the relief would not be contrary to the public interest.

(b) In determining whether to remove the subject's firearm-related disabilities, the mental health board shall receive and consider evidence upon the following:

(i) The circumstances surrounding the subject's mental health commitment or adjudication;

(ii) The subject's record, which shall include, at a minimum, the subject's mental health and criminal history records;

(iii) The subject's reputation, developed, at a minimum, through character witness statements, testimony, or other character evidence; and

(iv) Changes in the subject's condition, treatment, treatment history, or circumstances relevant to the relief sought.

(3) If a decision is made by the mental health board to remove the subject's firearm-related disabilities, the clerks of the various courts shall immediately send as soon as practicable but within thirty days an order to the Nebraska State Patrol and the Department of Health and Human Services, in a form and in a manner prescribed by the Department of Health and Human Services and the Nebraska State Patrol, stating its findings, which shall include a statement that, in the opinion of the mental health board, (a) the subject is not likely to act in a manner that is dangerous to public safety and (b) removing the subject's firearm-related disabilities will not be contrary to the public interest.

(4) The subject may appeal a denial of the requested relief to the district court, and review on appeal shall be de novo.

(5) If a petition is granted under this section, the commitment or adjudication for which relief is granted shall be deemed not to have occurred for purposes of section 69-2404 and the Concealed Handgun Permit Act and, pursuant to section 105(b) of Public Law 110-180, for purposes of 18 U.S.C. 922(d)(4) and (g)(4).

**Source:** Laws 2011, LB512, § 8.

Operative date January 1, 2012.

**Cross References**

Concealed Handgun Permit Act, see section 69-2427.

**ARTICLE 16**

**LOCAL HEALTH SERVICES**

**(b) LOCAL PUBLIC HEALTH DEPARTMENTS**

Section

71-1631.02. Local boards of health; retirement plan; reports.

## (b) LOCAL PUBLIC HEALTH DEPARTMENTS

**71-1631.02 Local boards of health; retirement plan; reports.**

(1) Beginning December 31, 1998, and each year thereafter, the health director of a board of health with an independent retirement plan established pursuant to section 71-1631 and section 401(a) of the Internal Revenue Code shall file with the Public Employees Retirement Board an annual report on such plan and shall submit copies of such report to the Auditor of Public Accounts. The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

- (a) The number of persons participating in the retirement plan;
- (b) The contribution rates of participants in the plan;
- (c) Plan assets and liabilities;
- (d) The names and positions of persons administering the plan;
- (e) The names and positions of persons investing plan assets;
- (f) The form and nature of investments;
- (g) For each independent defined contribution plan, a full description of investment policies and options available to plan participants; and
- (h) For each independent defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If an independent plan contains no current active participants, the health director may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(2) Beginning December 31, 1998, and every four years thereafter, if such retirement plan is a defined benefit plan, a board of health with an independent retirement plan established pursuant to section 71-1631 shall cause to be prepared a quadrennial report and the health director shall file the same with the Public Employees Retirement Board and submit to the Auditor of Public Accounts a copy of such report. The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. The report shall consist of a full actuarial analysis of each such independent retirement plan established pursuant to section 71-1631. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan.

**Source:** Laws 1998, LB 1191, § 43; Laws 1999, LB 795, § 12; Laws 2011, LB474, § 12.  
Effective date August 27, 2011.

## ARTICLE 19

## CARE OF CHILDREN

## (a) FOSTER CARE LICENSURE

Section

71-1902. Foster care; license required; training required; license renewal; fees; license revocation; procedure.

## (a) FOSTER CARE LICENSURE

**71-1902 Foster care; license required; training required; license renewal; fees; license revocation; procedure.**

Except as otherwise provided in this section, no person shall furnish or offer to furnish foster care for two or more children from different families 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 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. No license shall be issued pursuant to this section unless the applicant has completed the required hours of training in foster care as prescribed by the department.

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. For the issuance or renewal of each nonprovisional and nonprobationary license, the department shall charge a fee of fifty dollars for a group home, fifty dollars for a child-caring agency, and fifty dollars for a child-placing agency. For the issuance of each provisional license and each probationary license, the department shall charge a fee of twenty-five dollars for a group home, twenty-five dollars for a child-caring agency, and twenty-five dollars for a child-placing agency. A license may be revoked for cause, after notice and hearing, in accordance with rules and regulations adopted and promulgated by the department.

For purposes of this section:

- (1) Foster family home means any home which provides twenty-four-hour care to children who are not related to the foster parent by blood or adoption;
- (2) Group home means a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home and which is designed to provide twenty-four-hour care for children and youth in a residential setting;

(3) Child-caring agency means an organization which is organized as a corporation or a limited liability company for the purpose of providing care for children in buildings maintained by the organization for that purpose; and

(4) Child-placing agency means an organization which is authorized by its articles of incorporation and by its license to place children in foster family homes.

**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.  
Effective date August 27, 2011.

## ARTICLE 20

### HOSPITALS

#### (d) MEDICAL AND HOSPITAL CARE

##### Section

- 71-2046. Repealed. Laws 2011, LB 431, § 17.  
71-2047. Repealed. Laws 2011, LB 431, § 17.  
71-2048. Repealed. Laws 2011, LB 431, § 17.  
71-2048.01. Clinical privileges; standards and procedures.

#### (d) MEDICAL AND HOSPITAL CARE

**71-2046 Repealed. Laws 2011, LB 431, § 17.**

**71-2047 Repealed. Laws 2011, LB 431, § 17.**

**71-2048 Repealed. Laws 2011, LB 431, § 17.**

**71-2048.01 Clinical privileges; standards and procedures.**

Any hospital required to be licensed under the Health Care Facility Licensure Act shall not deny clinical privileges to physicians and surgeons, podiatrists, osteopathic physicians, osteopathic physicians and surgeons, certified nurse midwives, licensed psychologists, or dentists solely by reason of the credential held by the practitioner. Each such hospital shall establish reasonable standards and procedures to be applied when considering and acting upon an application for medical staff membership and privileges. Once an application is determined to be complete by the hospital and is verified in accordance with such standards and procedures, the hospital shall notify the applicant of its initial recommendation regarding membership and privileges within one hundred twenty days.

**Source:** Laws 1989, LB 646, § 1; Laws 1998, LB 1073, § 122; Laws 2000, LB 819, § 99; Laws 2011, LB68, § 1.  
Effective date August 27, 2011.

#### Cross References

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



## ARTICLE 24

## DRUGS

## (e) RETURN OF DISPENSED DRUGS AND DEVICES

## Section

71-2421. Collection or return of dispensed drugs and devices; conditions; fee; liability; professional disciplinary action.

## (k) CORRECTIONAL FACILITIES AND JAILS RELABELING AND REDISPENSING

71-2453. Department of Correctional Services facilities, detention facilities, or jails; prescription drug or device; return for credit or relabeling and redispensing; requirements; liability; professional disciplinary action.

## (l) PRESCRIPTION DRUG MONITORING PROGRAM

71-2454. Prescription drug monitoring; legislative intent.

71-2455. Prescription drug monitoring; Department of Health and Human Services; duties; powers.

## (e) RETURN OF DISPENSED DRUGS AND DEVICES

**71-2421 Collection or return of dispensed drugs and devices; conditions; fee; liability; professional disciplinary action.**

(1) To protect the public safety, dispensed drugs or devices:

(a) May be collected in a pharmacy for disposal;

(b) May be returned to a pharmacy in response to a recall by the manufacturer, packager, or distributor or if a device is defective or malfunctioning;

(c) Shall not be returned to saleable inventory nor made available for subsequent relabeling and redispensing, except as provided in subdivision (1)(d) of this section; or

(d) May be returned from a long-term care facility to the pharmacy from which they were dispensed for credit or for relabeling and redispensing, except that:

(i) No controlled substance may be returned;

(ii) The decision to accept the return of the dispensed drug or device shall rest solely with the pharmacist;

(iii) The dispensed drug or device shall have been in the control of the long-term care facility at all times;

(iv) The dispensed drug or device shall be in the original and unopened labeled container with a tamper-evident seal intact, as dispensed by the pharmacist. Such container shall bear the expiration date or calculated expiration date and lot number; and

(v) Tablets or capsules shall have been dispensed in a unit dose container which is impermeable to moisture and approved by the Board of Pharmacy.

(2) Pharmacies may charge a fee for collecting dispensed drugs or devices for disposal or from a long-term care facility for credit or for relabeling and redispensing.

(3) Any person or entity which exercises reasonable care in collecting dispensed drugs or devices for disposal or from a long-term care facility for credit or for relabeling and redispensing pursuant to this section shall be immune from civil or criminal liability or professional disciplinary action of

any kind for any injury, death, or loss to person or property relating to such activities.

(4) A drug manufacturer which exercises reasonable care shall be immune from civil or criminal liability for any injury, death, or loss to persons or property relating to the relabeling and redispensing of drugs returned from a long-term care facility.

(5) Notwithstanding subsection (4) of this section, the relabeling and redispensing of drugs returned from a long-term care facility does not absolve a drug manufacturer of any criminal or civil liability that would have existed but for the relabeling and redispensing and such relabeling and redispensing does not increase the liability of such drug manufacturer that would have existed but for the relabeling and redispensing.

(6) For purposes of this section:

(a) Calculated expiration date means the expiration date on the manufacturer's, packager's, or distributor's container or one year from the date the drug or device is repackaged, whichever is earlier;

(b) Dispense, drugs, and devices are defined in the Pharmacy Practice Act; and

(c) Long-term care facility does not include an assisted-living facility as defined in section 71-406.

**Source:** Laws 1999, LB 333, § 1; Laws 2001, LB 398, § 74; Laws 2002, LB 1062, § 53; Laws 2007, LB247, § 51; Laws 2007, LB463, § 1199; Laws 2011, LB274, § 1.  
Effective date August 27, 2011.

Cross References

Pharmacy Practice Act, see section 38-2801.

(k) CORRECTIONAL FACILITIES AND JAILS  
RELABELING AND REDISPENSING

**71-2453 Department of Correctional Services facilities, detention facilities, or jails; prescription drug or device; return for credit or relabeling and redispensing; requirements; liability; professional disciplinary action.**

(1) Prescription drugs or devices which have been dispensed pursuant to a valid prescription and delivered to a Department of Correctional Services facility, a criminal detention facility, a juvenile detention facility, or a jail for administration to a prisoner or detainee held at such facility or jail, but which are not administered to such prisoner or detainee, may be returned to the pharmacy from which they were dispensed under contract with the facility or jail for credit or for relabeling and redispensing and administration to another prisoner or detainee held at such facility or jail pursuant to a valid prescription as provided in this section.

(2)(a) The decision to accept return of a dispensed prescription drug or device for credit or for relabeling and redispensing rests solely with the pharmacist at the contracting pharmacy.

(b) A dispensed prescription drug or device shall be properly stored and in the control of the facility or jail at all times prior to the return of the drug or device for credit or for relabeling and redispensing. The drug or device shall be returned in the original and unopened labeled container dispensed by the

pharmacist with the tamper-evident seal intact, and the container shall bear the expiration date or calculated expiration date and lot number of the drug or device.

(c) A prescription drug or device shall not be returned or relabeled and redispensed under this section if the drug or device is a controlled substance or if the relabeling and redispensing is otherwise prohibited by law.

(3) For purposes of this section:

(a) Administration has the definition found in section 38-2807;

(b) Calculated expiration date has the definition found in section 71-2421;

(c) Criminal detention facility has the definition found in section 83-4,125;

(d) Department of Correctional Services facility has the definition of facility found in section 83-170;

(e) Dispense or dispensing has the definition found in section 38-2817;

(f) Jail has the definition found in section 47-117;

(g) Juvenile detention facility has the definition found in section 83-4,125;

(h) Prescription has the definition found in section 38-2840; and

(i) Prescription drug or device has the definition found in section 38-2841.

(4) The Jail Standards Board, in consultation with the Board of Pharmacy, shall adopt and promulgate rules and regulations relating to the return of dispensed prescription drugs or devices for credit, relabeling, or redispensing under this section, including, but not limited to, rules and regulations relating to (a) education and training of persons authorized to administer the prescription drug or device to a prisoner or detainee, (b) the proper storage and protection of the drug or device consistent with the directions contained on the label or written drug information provided by the pharmacist for the drug or device, (c) limits on quantity to be dispensed, (d) transferability of drugs or devices for prisoners or detainees between facilities, (e) container requirements, (f) establishment of a drug formulary, and (g) fees for the pharmacy to accept the returned drug or device.

(5) Any person or entity which exercises reasonable care in accepting, distributing, or dispensing prescription drugs or devices under this section or rules and regulations adopted and promulgated under this section shall be immune from civil or criminal liability or professional disciplinary action of any kind for any injury, death, or loss to person or property relating to such activities.

**Source:** Laws 2009, LB288, § 46; Laws 2011, LB274, § 2.  
Effective date August 27, 2011.

#### (l) PRESCRIPTION DRUG MONITORING PROGRAM

##### **71-2454 Prescription drug monitoring; legislative intent.**

It is the intent of the Legislature that an entity described in section 71-2455 establish a system of prescription drug monitoring for the purposes of (1) preventing the misuse of prescription drugs in an efficient and cost-effective manner and (2) allowing doctors and pharmacists to monitor the care and treatment of patients for whom a prescription drug is prescribed to ensure that prescription drugs are used for medically appropriate purposes and that the

State of Nebraska remains on the cutting edge of medical information technology.

**Source:** Laws 2011, LB237, § 1.  
Effective date August 27, 2011.

**71-2455 Prescription drug monitoring; Department of Health and Human Services; duties; powers.**

The Department of Health and Human Services, in collaboration with the Nebraska Health Information Initiative or any successor public-private state-wide health information exchange, shall enhance or establish technology for prescription drug monitoring to carry out the purposes of section 71-2454. No state funding shall be used to implement or operate the prescription drug monitoring system provided for in this section. The department may adopt and promulgate rules and regulations to authorize use of electronic health information, if necessary to carry out the purposes of this act.

**Source:** Laws 2011, LB237, § 2.  
Effective date August 27, 2011.

**ARTICLE 33  
FLUORIDATION**

Section

71-3305. Political subdivision; fluoride added to water supply; exception; ordinance to prohibit addition of fluoride; ballot; vote.

**71-3305 Political subdivision; fluoride added to water supply; exception; ordinance to prohibit addition of fluoride; ballot; vote.**

(1) Except as otherwise provided in subsection (2) or (3) of this section, any city or village having a population of one thousand or more inhabitants shall add fluoride to the water supply for human consumption for such city or village as provided in the rules and regulations of the Department of Health and Human Services unless such water supply has sufficient amounts of naturally occurring fluoride as provided in such rules and regulations.

(2) Subsection (1) of this section does not apply if the voters of the city or village adopted an ordinance, after April 18, 2008, but before June 1, 2010, to prohibit the addition of fluoride to such water supply.

(3) If any city or village reaches a population of one thousand or more inhabitants after June 1, 2010, and is required to add fluoride to its water supply under subsection (1) of this section, the city or village may adopt an ordinance to prohibit the addition of fluoride to such water supply. The ordinance may be placed on the ballot by a majority vote of the governing body of the city or village or by initiative pursuant to sections 18-2501 to 18-2538. Such proposed ordinance shall be voted upon at the next statewide general election after the population of the city or village reaches one thousand or more inhabitants.

(4) Any rural water district organized under sections 46-1001 to 46-1020 that supplies water for human consumption to any city or village which is required to add fluoride to such water supply under this section shall not be responsible for any costs, equipment, testing, or maintenance related to such fluoridation

unless such district has agreed with the city or village to assume such responsibilities.

**Source:** Laws 1973, LB 449, § 1; Laws 1975, LB 245, § 2; Laws 1982, LB 807, § 45; Laws 1996, LB 1044, § 644; Laws 2007, LB296, § 559; Laws 2008, LB245, § 1; Laws 2011, LB36, § 1.  
Effective date August 27, 2011.

**ARTICLE 53  
DRINKING WATER**

(b) DRINKING WATER STATE REVOLVING FUND ACT

Section

71-5326. Repealed. Laws 2011, LB 383, § 9.

(b) DRINKING WATER STATE REVOLVING FUND ACT

**71-5326 Repealed. Laws 2011, LB 383, § 9.**

Operative date July 1, 2011.

**ARTICLE 59  
ASSISTED-LIVING FACILITY ACT**

Section

71-5905. Admission or retention; conditions; health maintenance activities; requirements; written information provided to applicant for admission.

**71-5905 Admission or retention; conditions; health maintenance activities; requirements; written information provided to applicant for admission.**

(1) An assisted-living facility shall not admit or retain a resident who requires complex nursing interventions or whose condition is not stable or predictable unless:

(a) The resident, if he or she is not a minor and is competent to make a rational decision as to his or her needs or care, or his or her authorized representative, and his or her physician or a registered nurse agree that admission or retention of the resident is appropriate;

(b) The resident or his or her authorized representative agrees to arrange for the care of the resident through appropriate private duty personnel, a licensed home health agency, or a licensed hospice; and

(c) The resident's care does not compromise the facility operations or create a danger to others in the facility.

(2) Health maintenance activities at an assisted-living facility shall be performed in accordance with the Nurse Practice Act and the rules and regulations adopted and promulgated under the act.

(3) Each assisted-living facility shall provide written information about the practices of the assisted-living facility to each applicant for admission to the facility or his or her authorized representative. The information shall include:

(a) A description of the services provided by the assisted-living facility and the staff available to provide the services;

(b) The charges for services provided by the assisted-living facility;

(c) Whether or not the assisted-living facility accepts residents who are eligible for the medical assistance program under the Medical Assistance Act and, if applicable, the policies or limitations on access to services provided by the assisted-living facility for residents who seek care paid by the medical assistance program;

(d) The circumstance under which a resident would be required to leave an assisted-living facility;

(e) The process for developing and updating the resident services agreement; and

(f) For facilities that have special care units for dementia, the additional services provided to meet the special needs of persons with dementia.

**Source:** Laws 2004, LB 1005, § 49; Laws 2011, LB401, § 1.  
Effective date August 27, 2011.

**Cross References**

**Medical Assistance Act**, see section 68-901.  
**Nurse Practice Act**, see section 38-2201.

**ARTICLE 64**

**BUILDING CONSTRUCTION**

**Section**

71-6403. State building code; adopted; amendments.

71-6405. State building code; compliance required; amendment by state agency.

71-6406. Political subdivision; building code; adopt; amend; enforce.

**71-6403 State building code; adopted; amendments.**

(1) There is hereby created the state building code. The Legislature hereby adopts by reference:

(a) The International Building Code (IBC), 2009 edition, published by the International Code Council;

(b) The International Residential Code (IRC), 2009 edition, except section R313, published by the International Code Council; and

(c) The International Existing Building Code, 2009 edition, published by the International Code Council.

(2) The codes adopted by reference in subsection (1) of this section shall constitute the state building code except as amended pursuant to the Building Construction Act or as otherwise authorized by state law.

**Source:** Laws 1987, LB 227, § 3; Laws 1993, LB 319, § 1; Laws 1996, LB 1304, § 4; Laws 2003, LB 643, § 1; Laws 2010, LB799, § 1; Laws 2011, LB546, § 1.

Effective date August 27, 2011.

**71-6405 State building code; compliance required; amendment by state agency.**

All state agencies, including all state constitutional offices, state administrative departments, and state boards and commissions, the University of Nebraska, and the Nebraska state colleges, shall comply with the state building code. No state agency may adopt, promulgate, or enforce any rule or regulation in conflict with the state building code unless otherwise specifically authorized by

statute to adopt or enforce a building or construction code other than the state building code. Nothing in the Building Construction Act shall authorize any state agency to apply such act to manufactured homes or recreational vehicles regulated by the Uniform Standard Code for Manufactured Homes and Recreational Vehicles or to modular housing units regulated by the Nebraska Uniform Standards for Modular Housing Units Act. A state agency may, by rule or regulation, amend the state building code by adopting any supplement or appendix of the International Building Code (IBC), 2009 edition, International Residential Code (IRC), 2009 edition, or the International Existing Building Code, 2009 edition, referred to in section 71-6403, except that all amendments shall be approved in advance by the Director of Administrative Services. Amendments to the state building code may also include variations from the code which will reduce unnecessary costs of construction, increase safety, durability, or efficiency, or address special local conditions within the state and may include adoption of section R313 of the 2009 edition of the International Residential Code.

**Source:** Laws 1987, LB 227, § 5; Laws 1993, LB 319, § 3; Laws 1996, LB 1304, § 5; Laws 2003, LB 643, § 2; Laws 2010, LB799, § 3; Laws 2011, LB546, § 2.  
Effective date August 27, 2011.

**Cross References**

Nebraska Uniform Standards for Modular Housing Units Act, see section 71-1555.

Uniform Standard Code for Manufactured Homes and Recreational Vehicles, see section 71-4601.

**71-6406 Political subdivision; building code; adopt; amend; enforce.**

(1) Any political subdivision may enact, administer, or enforce a local building or construction code if or as long as such political subdivision adopts the state building code. The political subdivision shall regularly update its code. For purposes of this section, a code shall be deemed to be regularly updated if the most recently enacted state building code is adopted by the political subdivision within two years. No political subdivision may adopt or enforce a local building or construction code other than as provided by this section.

(2) A political subdivision may amend its local building or construction code if the amendment:

- (a) Conforms generally with the state building code;
- (b) Adopts a special or differing building standard by modifying or deleting any portion of the state building code in order to reduce unnecessary costs of construction, increase safety, durability, or efficiency, or address special local conditions within its jurisdiction;
- (c) Adopts any supplement, new edition, appendix, or component or combination of components of the state building code; or
- (d) Adopts section R313 of the 2009 edition of the International Residential Code.

(3) A political subdivision may adopt and promulgate amendments for the proper administration and enforcement of its local building or construction code including organization of enforcement, qualifications of staff members, examination of plans, inspections, appeals, permits, and fees. Any amendment adopted pursuant to this section shall be published separately from the local

building or construction code. Fees, if any, for services which monitor a builder's application of codes shall be negotiable between the political subdivisions involved, but such fees shall not exceed the actual expenses incurred by the political subdivision doing the monitoring.

(4) Notwithstanding the provisions of the Building Construction Act, a public building of a political subdivision shall be built in accordance with the applicable local building or construction code.

**Source:** Laws 1987, LB 227, § 6; Laws 1993, LB 319, § 4; Laws 2010, LB799, § 4; Laws 2011, LB546, § 3.  
Effective date August 27, 2011.

### ARTICLE 67

#### MEDICATION REGULATION

##### (b) MEDICATION AIDE ACT

Section

71-6736. Alleged incompetence; reports required; confidential; immunity.

##### (b) MEDICATION AIDE ACT

#### **71-6736 Alleged incompetence; reports required; confidential; immunity.**

(1) Any facility or person using the services of a medication aide shall report to the department, in the manner specified by the department by rule and regulation, any facts known to him, her, or it, including, but not limited to, the identity of the medication aide and the recipient, when it takes action adversely affecting a medication aide due to alleged incompetence. The report shall be made within thirty days after the date of the action or event.

(2) Any person may report to the department any facts known to him or her concerning any alleged incompetence of a medication aide.

(3) A report made to the department under this section shall be confidential. The facility, organization, association, or person making such report shall be immune from criminal or civil liability of any nature, whether direct or derivative, for filing a report or for disclosure of documents, records, or other information to the department under this section. The reports and information shall be subject to the investigatory and enforcement provisions of the regulatory provisions listed in the Medication Aide Act. This subsection does not require production of records protected by the Health Care Quality Improvement Act or section 25-12,123 or patient safety work product under the Patient Safety Improvement Act except as otherwise provided in either of such acts or such section.

**Source:** Laws 1998, LB 1354, § 26; Laws 2005, LB 361, § 34; Laws 2011, LB431, § 14.  
Effective date April 27, 2011.

#### Cross References

**Health Care Quality Improvement Act**, see section 71-7904.

**Patient Safety Improvement Act**, see section 71-8701.



## ARTICLE 69

## ABORTION

## Section

71-6901.	Terms, defined.
71-6902.	Performance of abortion; notarized written consent required.
71-6902.01.	Victim of abuse, sexual abuse, or child abuse or neglect; attending physician; duties; liability.
71-6902.02.	Coercion to obtain abortion; prohibited; denial of financial support; effect.
71-6903.	Abortion; authorized by court; when; procedures; confidentiality and anonymity; guardian ad litem; court order; specific factual findings and legal conclusions.
71-6904.	Appeal; procedure; confidentiality.
71-6905.	Court proceedings; no fees or costs required.
71-6906.	Performance of abortion; consent not required; when.
71-6907.	Violation by physician; penalty; civil action; immunity; prohibited acts; violation; penalty.
71-6908.	Family or foster family abuse, neglect, or sexual assault; legislative findings and declarations; prosecution encouraged.
71-6909.	Physician; report; contents; form; compilation by department.
71-6910.	Sections; how construed; intent.
71-6911.	Declaration; confidentiality.

**71-6901 Terms, defined.**

For purposes of sections 71-6901 to 71-6911:

(1) Abortion means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will with reasonable likelihood cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:

- (a) Save the life or preserve the health of an unborn child;
- (b) Remove a dead unborn child caused by a spontaneous abortion; or
- (c) Remove an ectopic pregnancy;

(2) Coercion means restraining or dominating the choice of a pregnant woman by force, threat of force, or deprivation of food and shelter;

(3) Consent means a declaration acknowledged before a notary public and signed by a parent or legal guardian of the pregnant woman or an alternate person as described in section 71-6902.01 declaring that the principal has been informed that the pregnant woman intends to undergo a procedure pursuant to subdivision (1) of section 71-6901 and that the principal consents to the procedure;

(4) Department means the Department of Health and Human Services;

(5) Emancipated means a situation in which a person under eighteen years of age has been married or legally emancipated;

(6) Facsimile copy means a copy generated by a system that encodes a document or photograph into electrical signals, transmits those signals over telecommunications lines, and then reconstructs the signals to create an exact duplicate of the original document at the receiving end;

(7) Incompetent means any person who has been adjudged a disabled person and has had a guardian appointed under sections 30-2617 to 30-2629;

(8) Medical emergency means a condition that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function;

(9) Physician means any person licensed to practice medicine in this state as provided in the Uniform Credentialing Act. Physician includes a person who practices osteopathy; and

(10) Pregnant woman means an unemancipated woman under eighteen years of age who is pregnant or a woman for whom a guardian has been appointed pursuant to sections 30-2617 to 30-2629 because of a finding of incapacity, disability, or incompetency who is pregnant.

**Source:** Laws 1991, LB 425, § 1; Laws 2011, LB690, § 3.  
Effective date August 27, 2011.

**Cross References**

Uniform Credentialing Act, see section 38-101.

**71-6902 Performance of abortion; notarized written consent required.**

Except in the case of a medical emergency or except as provided in sections 71-6902.01, 71-6903, and 71-6906, no person shall perform an abortion upon a pregnant woman unless, in the case of a woman who is less than eighteen years of age, he or she first obtains the notarized written consent of both the pregnant woman and one of her parents or a legal guardian or, in the case of a woman for whom a guardian has been appointed pursuant to sections 30-2617 to 30-2629, he or she first obtains the notarized written consent of her guardian. In deciding whether to grant such consent, a pregnant woman's parent or guardian shall consider only his or her child's or ward's best interest.

**Source:** Laws 1991, LB 425, § 2; Laws 2011, LB690, § 4.  
Effective date August 27, 2011.

**71-6902.01 Victim of abuse, sexual abuse, or child abuse or neglect; attending physician; duties; liability.**

If the pregnant woman declares in a signed written statement that she is a victim of abuse as defined in section 28-351, sexual abuse as defined in section 28-367, or child abuse or neglect as defined in section 28-710 by either of her parents or her legal guardians, then the attending physician shall obtain the notarized written consent required by section 71-6902 from a grandparent specified by the pregnant woman. The physician who intends to perform the abortion shall certify in the pregnant woman's medical record that he or she has received the written declaration of abuse or neglect. Any physician relying in good faith on a written statement under this section shall not be civilly or criminally liable under sections 71-6901 to 71-6911 for failure to obtain consent. If such a declaration is made, the attending physician or his or her agent shall inform the pregnant woman of his or her duty to notify the proper authorities pursuant to sections 28-372 and 28-711.

**Source:** Laws 2011, LB690, § 5.  
Effective date August 27, 2011.

**71-6902.02 Coercion to obtain abortion; prohibited; denial of financial support; effect.**

No parent, guardian, or any other person shall coerce a pregnant woman to obtain an abortion. If a pregnant woman is denied financial support by her parents, guardians, or custodians due to her refusal to obtain an abortion, the pregnant woman shall be deemed emancipated for purposes of eligibility for public assistance benefits, except that such benefits may not be used to obtain an abortion.

**Source:** Laws 2011, LB690, § 6.  
Effective date August 27, 2011.

**71-6903 Abortion; authorized by court; when; procedures; confidentiality and anonymity; guardian ad litem; court order; specific factual findings and legal conclusions.**

(1) The requirements and procedures under this section are available to pregnant women whether or not they are residents of this state.

(2) If a pregnant woman elects not to obtain the consent of her parents or guardians, a judge of a district court, separate juvenile court, or county court sitting as a juvenile court shall, upon petition or motion and after an appropriate hearing, authorize a physician to perform the abortion if the court determines by clear and convincing evidence that the pregnant woman is both sufficiently mature and well-informed to decide whether to have an abortion. If the court does not make the finding specified in this subsection or subsection (3) of this section, it shall dismiss the petition.

(3) If the court finds, by clear and convincing evidence, that there is evidence of abuse as defined in section 28-351, sexual abuse as defined in section 28-367, or child abuse or neglect as defined in section 28-710 of the pregnant woman by a parent or a guardian or that an abortion without the consent of a parent or a guardian is in the best interest of the pregnant woman, the court shall issue an order authorizing the pregnant woman to consent to the performance or inducement of an abortion without the consent of a parent or a guardian. If the court does not make the finding specified in this subsection or subsection (2) of this section, it shall dismiss the petition.

(4) A facsimile copy of the petition or motion may be transmitted directly to the court for filing. If a facsimile copy is filed in lieu of the original document, the party filing the facsimile copy shall retain the original document for production to the court if requested to do so.

(5) A court shall not be required to have a facsimile machine nor shall the court be required to transmit orders or other material to attorneys or parties via facsimile transmission.

(6) The pregnant woman may commence an action for waiver of the consent requirement by the filing of a petition or motion personally, by mail, or by facsimile on a form provided by the State Court Administrator.

(7) The State Court Administrator shall develop the petition form and accompanying instructions on the procedure for petitioning the court for a waiver of consent, including the name, address, telephone number, and facsimile number of each court in the state. A sufficient number of petition forms and instructions shall be made available in each courthouse in such place that members of the general public may obtain a form and instructions without

requesting such form and instructions from the clerk of the court or other court personnel. The clerk of the court shall, upon request, assist in completing and filing the petition for waiver of consent.

(8) Proceedings in court pursuant to this section shall be confidential and shall ensure the anonymity of the pregnant woman. The pregnant woman shall have the right to file her petition in the court using a pseudonym or using solely her initials. Proceedings shall be held in camera. Only the pregnant woman, the pregnant woman's guardian ad litem, the pregnant woman's attorney, and a person whose presence is specifically requested by the pregnant woman or the pregnant woman's attorney may attend the hearing on the petition. All testimony, all documents, all other evidence presented to the court, the petition and any order entered, and all records of any nature and kind relating to the matter shall be sealed by the clerk of the court and shall not be open to any person except upon order of the court for good cause shown. A separate docket for the purposes of this section shall be maintained by the clerk of the court and shall likewise be sealed and not opened to inspection by any person except upon order of the court for good cause shown.

(9) A pregnant woman who is subject to this section may participate in the court proceedings on her own behalf, and the court may appoint a guardian ad litem for her. The court shall advise the pregnant woman that she has a right to court-appointed counsel and shall, upon her request, provide her with such counsel. Such counsel shall receive a fee to be fixed by the court and to be paid out of the treasury of the county in which the proceeding was held.

(10) Proceedings in court pursuant to this section shall be given such precedence over other pending matters so that the court may reach a decision promptly and without delay to serve the best interest of the pregnant woman. In no case shall the court fail to rule within seven calendar days from the time the petition is filed. If the court fails to rule within the required time period, the pregnant woman may file an application for a writ of mandamus with the Supreme Court. If cause for a writ of mandamus exists, the writ shall issue within three days.

(11) The court shall issue a written order which includes specific factual findings and legal conclusions supporting its decision which shall be provided immediately to the pregnant woman, the pregnant woman's guardian ad litem, the pregnant woman's attorney, and any other person designated by the pregnant woman to receive the order. Further, the court shall order that a confidential record of the evidence and the judge's findings and conclusions be maintained. At the hearing, the court shall hear evidence relating to the emotional development, maturity, intellect, and understanding of the pregnant woman.

**Source:** Laws 1991, LB 425, § 3; Laws 2011, LB690, § 7.  
Effective date August 27, 2011.

**71-6904 Appeal; procedure; confidentiality.**

(1) An appeal to the Supreme Court shall be available to any pregnant woman for whom a court denies an order authorizing an abortion without consent. An order authorizing an abortion without consent shall not be subject to appeal.

(2) An adverse ruling by the court may be appealed to the Supreme Court.

(3) A pregnant woman may file a notice of appeal of any final order to the Supreme Court. The State Court Administrator shall develop the form for notice of appeal and accompanying instructions on the procedure for an appeal. A sufficient number of forms for notice of appeal and instructions shall be made available in each courthouse in such place that members of the general public can obtain a form and instructions without requesting such form and instructions from the clerk of the court or other court personnel.

(4) The clerk of the court shall cause the court transcript and bill of exceptions to be filed with the Supreme Court within four business days, but in no event later than seven calendar days, from the date of the filing of the notice of appeal.

(5) In all appeals under this section the pregnant woman shall have the right of a confidential and expedited appeal and the right to counsel at the appellate level if not already represented. Such counsel shall be appointed by the court and shall receive a fee to be fixed by the court and to be paid out of the treasury of the county in which the proceeding was held. The pregnant woman shall not be required to appear.

(6) The Supreme Court shall hear the appeal de novo on the record and issue a written decision which shall be provided immediately to the pregnant woman, the pregnant woman's guardian ad litem, the pregnant woman's attorney, or any other person designated by the pregnant woman to receive the order.

(7) The Supreme Court shall rule within seven calendar days from the time of the docketing of the appeal in the Supreme Court.

(8) The Supreme Court shall adopt and promulgate rules to ensure that proceedings under this section are handled in a confidential and expeditious manner.

**Source:** Laws 1991, LB 425, § 4; Laws 2011, LB690, § 8.  
Effective date August 27, 2011.

**71-6905 Court proceedings; no fees or costs required.**

No filing fees or costs shall be required of any pregnant woman at either the trial or appellate level for any proceedings pursuant to sections 71-6901 to 71-6911.

**Source:** Laws 1991, LB 425, § 5; Laws 2011, LB690, § 9.  
Effective date August 27, 2011.

**71-6906 Performance of abortion; consent not required; when.**

Consent shall not be required pursuant to sections 71-6901 to 71-6911 if any of the following conditions exist:

(1) The attending physician certifies in the pregnant woman's medical record that a medical emergency exists and there is insufficient time to obtain the required consent; or

(2) Consent is waived under section 71-6903.

**Source:** Laws 1991, LB 425, § 6; Laws 2005, LB 116, § 23; Laws 2011, LB690, § 10.  
Effective date August 27, 2011.

**71-6907 Violation by physician; penalty; civil action; immunity; prohibited acts; violation; penalty.**

(1) Any physician or attending physician who knowingly and intentionally or with reckless disregard performs an abortion in violation of sections 71-6901 to 71-6906 and 71-6909 to 71-6911 shall be guilty of a Class III misdemeanor.

(2) Performance of an abortion in violation of such sections shall be grounds for a civil action by a person wrongfully denied the right and opportunity to consent.

(3) A person shall be immune from liability under such sections (a) if he or she establishes by written evidence that he or she relied upon evidence sufficient to convince a careful and prudent person that the representations of the pregnant woman regarding information necessary to comply with such sections are bona fide and true or (b) if the person has performed an abortion authorized by a court order issued pursuant to section 71-6903 or 71-6904.

(4) Any person not authorized to provide consent under sections 71-6901 to 71-6911 who provides consent is guilty of a Class III misdemeanor.

(5) Any person who coerces a pregnant woman to have an abortion is guilty of a Class III misdemeanor.

**Source:** Laws 1991, LB 425, § 7; Laws 2011, LB690, § 11.  
Effective date August 27, 2011.

**71-6908 Family or foster family abuse, neglect, or sexual assault; legislative findings and declarations; prosecution encouraged.**

The Legislature recognizes and hereby declares that some teenage pregnancies are a direct or indirect result of family or foster family abuse, neglect, or sexual assault. The Legislature further recognizes that the actions of abuse, neglect, or sexual assault are crimes regardless of whether they are committed by strangers, acquaintances, or family members. The Legislature further recognizes the need for a parental consent bypass system as set out in section 71-6903 due to the number of unhealthy family environments in which some pregnant women reside. The Legislature encourages county attorneys to prosecute persons accused of committing acts of abuse, incest, neglect, or sexual assault pursuant to sections 28-319, 28-319.01, 28-320, 28-320.01, 28-703, and 28-707 even if the alleged crime is committed by a biological or adoptive parent, foster parent, or other biological, adoptive, or foster family member.

**Source:** Laws 1991, LB 425, § 8; Laws 2006, LB 1199, § 56; Laws 2011, LB690, § 13.  
Effective date August 27, 2011.

**71-6909 Physician; report; contents; form; compilation by department.**

A monthly report indicating only the number of consents obtained under sections 71-6901 to 71-6911, the number of times in which exceptions were made to the consent requirement under such sections, the type of exception, the pregnant woman's age, and the number of prior pregnancies and prior abortions of the pregnant woman shall be filed by the physician with the department on forms prescribed by the department. The name of the pregnant woman shall

not be used on the forms. A compilation of the data reported shall be made by the department on an annual basis and shall be available to the public.

**Source:** Laws 2011, LB690, § 12.  
Effective date August 27, 2011.

**71-6910 Sections; how construed; intent.**

(1) Nothing in sections 71-6901 to 71-6911 shall be construed as creating or recognizing a right to abortion.

(2) It is not the intent of sections 71-6901 to 71-6911 to make lawful an abortion that is currently unlawful.

**Source:** Laws 2011, LB690, § 14.  
Effective date August 27, 2011.

**71-6911 Declaration; confidentiality.**

A declaration under sections 71-6901 to 71-6911 shall be confidential except as would be required in any court proceedings under such sections.

**Source:** Laws 2011, LB690, § 15.  
Effective date August 27, 2011.

**ARTICLE 74**

**WHOLESALE DRUG DISTRIBUTOR LICENSING**

Section

71-7460.02. Health care facility; peer review organization, or professional association; duty to report; confidentiality; immunity; failure to report; civil penalty.

**71-7460.02 Health care facility; peer review organization, or professional association; duty to report; confidentiality; immunity; failure to report; civil penalty.**

(1) A health care facility licensed under the Health Care Facility Licensure Act or a peer review organization or professional association relating to a profession regulated under the Wholesale Drug Distributor Licensing Act shall report to the department, on a form and in the manner specified by the department, any facts known to the facility, organization, or association, including, but not limited to, the identity of the credential holder and consumer, when the facility, organization, or association:

(a) Has made payment due to adverse judgment, settlement, or award of a professional liability claim against it or a licensee, including settlements made prior to suit, arising out of the acts or omissions of the licensee; or

(b) Takes action adversely affecting the privileges or membership of a licensee in such facility, organization, or association due to alleged incompetence, professional negligence, unprofessional conduct, or physical, mental, or chemical impairment.

The report shall be made within thirty days after the date of the action or event.

(2) A report made to the department under this section shall be confidential. The facility, organization, association, or person making such report shall be completely immune from criminal or civil liability of any nature, whether direct or derivative, for filing a report or for disclosure of documents, records, or

other information to the department under this section. Nothing in this subsection shall be construed to require production of records protected by the Health Care Quality Improvement Act or section 25-12,123 or patient safety work product under the Patient Safety Improvement Act except as otherwise provided in either of such acts or such section.

(3) Any health care facility, peer review organization, or professional association that fails or neglects to make a report or provide information as required under this section is subject to a civil penalty of five hundred dollars for the first offense and a civil penalty of up to one thousand dollars for a subsequent offense. Any civil penalty collected under this subsection shall be remitted to the State Treasurer to be disposed of in accordance with Article VII, section 5, of the Constitution of Nebraska.

(4) For purposes of this section, the department shall accept reports made to it under the Nebraska Hospital-Medical Liability Act or in accordance with national practitioner data bank requirements of the federal Health Care Quality Improvement Act of 1986, as the act existed on January 1, 2007, and may require a supplemental report to the extent such reports do not contain the information required by the department.

**Source:** Laws 2007, LB463, § 1298; Laws 2011, LB431, § 15.  
Effective date April 27, 2011.

**Cross References**

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

**Health Care Quality Improvement Act**, see section 71-7904.

**Nebraska Hospital-Medical Liability Act**, see section 44-2855.

**Patient Safety Improvement Act**, see section 71-8701.

**ARTICLE 76**  
**HEALTH CARE**

(b) NEBRASKA HEALTH CARE FUNDING ACT

Section

71-7606. Purpose of act; restrictions on use of funds; report.

(b) NEBRASKA HEALTH CARE FUNDING ACT

**71-7606 Purpose of act; restrictions on use of funds; report.**

(1) The purpose of the Nebraska Health Care Funding Act is to provide for the use of dedicated revenue for health-care-related expenditures and administration and enforcement of the Master Settlement Agreement as defined in section 69-2702.

(2) Any funds appropriated or distributed under the act shall not be considered ongoing entitlements or obligations on the part of the State of Nebraska and shall not be used to replace existing funding for existing programs.

(3) No funds appropriated or distributed under the act shall be used for abortion, abortion counseling, referral for abortion, or research or activity of any kind involving the use of human fetal tissue obtained in connection with the performance of an induced abortion or involving the use of human embryonic stem cells or for the purpose of obtaining other funding for such use.



(4) The Department of Health and Human Services shall report annually to the Legislature and the Governor regarding the use of funds appropriated under the act and the outcomes achieved from such use.

**Source:** Laws 1998, LB 1070, § 2; Laws 2000, LB 1427, § 3; Laws 2001, LB 692, § 14; Laws 2003, LB 412, § 4; Laws 2007, LB296, § 676; Laws 2008, LB469, § 1; Laws 2011, LB590, § 18.  
Operative date January 1, 2013.

#### ARTICLE 79

### HEALTH CARE QUALITY IMPROVEMENT ACT

#### (a) PEER REVIEW COMMITTEES

##### Section

- 71-7901. Repealed. Laws 2011, LB 431, § 17.  
71-7902. Repealed. Laws 2011, LB 431, § 17.  
71-7903. Repealed. Laws 2011, LB 431, § 17.

#### (b) HEALTH CARE QUALITY IMPROVEMENT ACT

- 71-7904. Act, how cited.  
71-7905. Purposes of act.  
71-7906. Definitions, where found.  
71-7907. Health care provider, defined.  
71-7908. Incident report, defined.  
71-7909. Peer review, defined.  
71-7910. Peer review committee, defined.  
71-7911. Liability for activities relating to peer review.  
71-7912. Confidentiality; discovery; availability of medical records, documents, or information; limitation.  
71-7913. Incident report or risk management report; how treated.

#### (a) PEER REVIEW COMMITTEES

**71-7901 Repealed. Laws 2011, LB 431, § 17.**

**71-7902 Repealed. Laws 2011, LB 431, § 17.**

**71-7903 Repealed. Laws 2011, LB 431, § 17.**

#### (b) HEALTH CARE QUALITY IMPROVEMENT ACT

**71-7904 Act, how cited.**

Sections 71-7904 to 71-7913 shall be known and may be cited as the Health Care Quality Improvement Act.

**Source:** Laws 2011, LB431, § 1.  
Effective date April 27, 2011.

**71-7905 Purposes of act.**

The purposes of the Health Care Quality Improvement Act are to provide protection for those individuals who participate in peer review activities which evaluate the quality and efficiency of health care providers and to protect the confidentiality of peer review records.

**Source:** Laws 2011, LB431, § 2.  
Effective date April 27, 2011.

**71-7906 Definitions, where found.**

For purposes of the Health Care Quality Improvement Act, the definitions found in sections 71-7907 to 71-7910 apply.

**Source:** Laws 2011, LB431, § 3.  
Effective date April 27, 2011.

**71-7907 Health care provider, defined.**

Health care provider means:

- (1) A facility licensed under the Health Care Facility Licensure Act;
- (2) A health care professional licensed under the Uniform Credentialing Act;  
and
- (3) An organization or association of health care professionals licensed under the Uniform Credentialing Act.

**Source:** Laws 2011, LB431, § 4.  
Effective date April 27, 2011.

**Cross References**

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

**Uniform Credentialing Act**, see section 38-101.

**71-7908 Incident report, defined.**

Incident report or risk management report means a report of an incident involving injury or potential injury to a patient as a result of patient care provided by a health care provider, including both an individual who provides health care and an entity that provides health care, that is created specifically for and collected and maintained for exclusive use by a peer review committee of a health care entity and that is within the scope of the functions of that committee.

**Source:** Laws 2011, LB431, § 5.  
Effective date April 27, 2011.

**71-7909 Peer review, defined.**

Peer review means the procedure by which health care providers evaluate the quality and efficiency of services ordered or performed by other health care providers, including practice analysis, inpatient hospital and extended care facility utilization review, medical audit, ambulatory care review, root cause analysis, claims review, underwriting assistance, and the compliance of a hospital, nursing home, or other health care facility operated by a health care provider with the standards set by an association of health care providers and with applicable laws, rules, and regulations.

**Source:** Laws 2011, LB431, § 6.  
Effective date April 27, 2011.

**71-7910 Peer review committee, defined.**

Peer review committee means a utilization review committee, quality assessment committee, performance improvement committee, tissue committee, credentialing committee, or other committee established by the governing board of a facility which is a health care provider that does either of the following:

(1) Conducts professional credentialing or quality review activities involving the competence of, professional conduct of, or quality of care provided by a health care provider, including both an individual who provides health care and an entity that provides health care; or

(2) Conducts any other attendant hearing process initiated as a result of a peer review committee's recommendations or actions.

**Source:** Laws 2011, LB431, § 7.

Effective date April 27, 2011.

**71-7911 Liability for activities relating to peer review.**

(1) A health care provider or an individual (a) serving as a member or employee of a peer review committee, working on behalf of a peer review committee, furnishing counsel or services to a peer review committee, or participating in a peer review activity as an officer, director, employee, or member of the governing board of a facility which is a health care provider and (b) acting without malice shall not be held liable in damages to any person for any acts, omissions, decisions, or other conduct within the scope of the functions of a peer review committee.

(2) A person who makes a report or provides information to a peer review committee shall not be subject to suit as a result of providing such information if such person acts without malice.

**Source:** Laws 2011, LB431, § 8.

Effective date April 27, 2011.

**71-7912 Confidentiality; discovery; availability of medical records, documents, or information; limitation.**

(1) The proceedings, records, minutes, and reports of a peer review committee shall be held in confidence and shall not be subject to discovery or introduction into evidence in any civil action. No person who attends a meeting of a peer review committee, works for or on behalf of a peer review committee, provides information to a peer review committee, or participates in a peer review activity as an officer, director, employee, or member of the governing board of a facility which is a health care provider shall be permitted or required to testify in any such civil action as to any evidence or other matters produced or presented during the proceedings or activities of the peer review committee or as to any findings, recommendations, evaluations, opinions, or other actions of the peer review committee or any members thereof.

(2) Nothing in this section shall be construed to prevent discovery or use in any civil action of medical records, documents, or information otherwise available from original sources and kept with respect to any patient in the ordinary course of business, but the records, documents, or information shall be available only from the original sources and cannot be obtained from the peer review committee's proceedings or records.

**Source:** Laws 2011, LB431, § 9.

Effective date April 27, 2011.

**71-7913 Incident report or risk management report; how treated.**

An incident report or risk management report and the contents of an incident report or risk management report are not subject to discovery in, and are not

admissible in evidence in the trial of, a civil action for damages for injury, death, or loss to a patient of a health care provider. A person who prepares or has knowledge of the contents of an incident report or risk management report shall not testify and shall not be required to testify in any civil action as to the contents of the report.

**Source:** Laws 2011, LB431, § 10.  
Effective date April 27, 2011.

#### ARTICLE 90

#### SEXUAL ASSAULT OR DOMESTIC VIOLENCE PATIENT

##### Section

71-9001. Sexual assault or domestic violence patient; examination and treatment authorized.

##### **71-9001 Sexual assault or domestic violence patient; examination and treatment authorized.**

A physician, his or her agent, or a mental health professional as defined in section 71-906, upon consultation with a patient who is eighteen years of age, shall, with the consent of the patient, make or cause to be made a diagnostic examination for physical or mental injuries associated with sexual assault or domestic violence and prescribe for and treat such person for injuries associated with sexual assault or domestic violence. All such examinations and treatment may be performed without the consent of or notification to the parent, parents, guardian, or any other person having custody of the patient.

**Source:** Laws 2011, LB479, § 2.  
Effective date August 27, 2011.

#### ARTICLE 91

#### CONCUSSION AWARENESS ACT

##### Section

71-9101. Act, how cited.

71-9102. Legislative findings.

71-9103. Terms, defined.

71-9104. Schools; duties; participant on athletic team; actions required; notice to parent or guardian; effect of signature of licensed health care professional.

71-9105. City, village, business, or nonprofit organization; duties; participant in athletic activity; actions required; notice to parent or guardian; effect of signature of licensed health care professional.

71-9106. Act; how construed.

##### **71-9101 Act, how cited.**

Sections 71-9101 to 71-9106 shall be known and may be cited as the Concussion Awareness Act.

**Source:** Laws 2011, LB260, § 1.  
Operative date July 1, 2012.

##### **71-9102 Legislative findings.**

(1) The Legislature finds that concussions are one of the most commonly reported injuries in children and adolescents who participate in sports and recreational activities and that the risk of catastrophic injury or death is

significant when a concussion or brain injury is not properly evaluated and managed.

(2) The Legislature further finds that concussions are a type of brain injury that can range from mild to severe and can disrupt the way the brain normally works. Concussions can occur in any organized or unorganized sport or recreational activity and can result from a fall or from players colliding with each other, the ground, or with obstacles. Concussions occur with or without loss of consciousness, but the vast majority occur without loss of consciousness.

(3) The Legislature further finds that continuing to play with a concussion or symptoms of brain injury leaves a young athlete especially vulnerable to greater injury and even death. The Legislature recognizes that, despite having generally recognized return-to-play standards for concussion and brain injury, some young athletes are prematurely returned to play, resulting in actual or potential physical injury or death.

**Source:** Laws 2011, LB260, § 2.  
Operative date July 1, 2012.

#### **71-9103 Terms, defined.**

For purposes of the Concussion Awareness Act:

(1) Chief medical officer means the chief medical officer as designated in section 81-3115; and

(2) Licensed health care professional means a physician or licensed practitioner under the direct supervision of a physician, a certified athletic trainer, a neuropsychologist, or some other qualified individual who (a) is registered, licensed, certified, or otherwise statutorily recognized by the State of Nebraska to provide health care services and (b) is trained in the evaluation and management of traumatic brain injuries among a pediatric population.

**Source:** Laws 2011, LB260, § 3.  
Operative date July 1, 2012.

#### **71-9104 Schools; duties; participant on athletic team; actions required; notice to parent or guardian; effect of signature of licensed health care professional.**

(1) Each approved or accredited public, private, denominational, or parochial school shall:

(a) Make available training approved by the chief medical officer on how to recognize the symptoms of a concussion or brain injury and how to seek proper medical treatment for a concussion or brain injury to all coaches of school athletic teams; and

(b) Require that concussion and brain injury information be provided on an annual basis to students and the students' parents or guardians prior to such students initiating practice or competition. The information provided to students and the students' parents or guardians shall include, but need not be limited to:

(i) The signs and symptoms of a concussion;

(ii) The risks posed by sustaining a concussion; and

(iii) The actions a student should take in response to sustaining a concussion, including the notification of his or her coaches.

(2)(a) A student who participates on a school athletic team shall be removed from a practice or game when he or she is reasonably suspected of having sustained a concussion or brain injury in such practice or game after observation by a coach or a licensed health care professional who is professionally affiliated with or contracted by the school. Such student shall not be permitted to participate in any school supervised team athletic activities involving physical exertion, including, but not limited to, practices or games, until the student (i) has been evaluated by a licensed health care professional, (ii) has received written and signed clearance to resume participation in athletic activities from the licensed health care professional, and (iii) has submitted the written and signed clearance to resume participation in athletic activities to the school accompanied by written permission to resume participation from the student's parent or guardian.

(b) If a student is reasonably suspected after observation of having sustained a concussion or brain injury and is removed from an athletic activity under subdivision (2)(a) of this section, the parent or guardian of the student shall be notified by the school of the date and approximate time of the injury suffered by the student, the signs and symptoms of a concussion or brain injury that were observed, and any actions taken to treat the student.

(c) Nothing in this subsection shall be construed to require any school to provide for the presence of a licensed health care professional at any practice or game.

(d) The signature of an individual who represents that he or she is a licensed health care professional on a written clearance to resume participation that is provided to a school shall be deemed to be conclusive and reliable evidence that the individual who signed the clearance is a licensed health care professional. The school shall not be required to determine or verify the individual's qualifications.

**Source:** Laws 2011, LB260, § 4.

Operative date July 1, 2012.

**71-9105 City, village, business, or nonprofit organization; duties; participant in athletic activity; actions required; notice to parent or guardian; effect of signature of licensed health care professional.**

(1) Any city, village, business, or nonprofit organization that organizes an athletic activity in which the athletes are nineteen years of age or younger and are required to pay a fee to participate in the athletic activity or whose cost to participate in the athletic activity is sponsored by a business or nonprofit organization shall:

(a) Make available training approved by the chief medical officer on how to recognize the symptoms of a concussion or brain injury and how to seek proper medical treatment for a concussion or brain injury to all coaches; and

(b) Provide information on concussions and brain injuries to all coaches and athletes and to a parent or guardian of each athlete that shall include, but need not be limited to:

(i) The signs and symptoms of a concussion;

(ii) The risks posed by sustaining a concussion; and

(iii) The actions an athlete should take in response to sustaining a concussion, including the notification of his or her coaches.

(2)(a) An athlete who participates in an athletic activity under subsection (1) of this section shall be removed from a practice or game when he or she is reasonably suspected of having sustained a concussion or brain injury in such practice or game after observation by a coach or a licensed health care professional. Such athlete shall not be permitted to participate in any supervised athletic activities involving physical exertion, including, but not limited to, practices or games, until the athlete (i) has been evaluated by a licensed health care professional, (ii) has received written and signed clearance to resume participation in athletic activities from the licensed health care professional, and (iii) has submitted the written and signed clearance to resume participation in athletic activities to the city, village, business, or nonprofit organization that organized the athletic activity accompanied by written permission to resume participation from the athlete's parent or guardian.

(b) If an athlete is reasonably suspected after observation of having sustained a concussion or brain injury and is removed from an athletic activity under subdivision (2)(a) of this section, the parent or guardian of the athlete shall be notified by the coach or a representative of the city, village, business, or nonprofit organization that organized the athletic activity of the date and approximate time of the injury suffered by the athlete, the signs and symptoms of a concussion or brain injury that were observed, and any actions taken to treat the athlete.

(c) Nothing in this subsection shall be construed to require any city, village, business, or nonprofit organization to provide for the presence of a licensed health care professional at any practice or game.

(d) The signature of an individual who represents that he or she is a licensed health care professional on a written clearance to resume participation that is provided to a city, village, business, or nonprofit organization shall be deemed to be conclusive and reliable evidence that the individual who signed the clearance is a licensed health care professional. The city, village, business, or nonprofit organization shall not be required to determine or verify the individual's qualifications.

**Source:** Laws 2011, LB260, § 5.  
Operative date July 1, 2012.

**71-9106 Act; how construed.**

Nothing in the Concussion Awareness Act shall be construed to create liability for or modify the liability or immunity of a school, school district, city, village, business, or nonprofit organization or the officers, employees, or volunteers of any such school, school district, city, village, business, or nonprofit organization.

**Source:** Laws 2011, LB260, § 6.  
Operative date July 1, 2012.





## CHAPTER 72

### PUBLIC LANDS, BUILDINGS, AND FUNDS

Article.

- 2. School Lands and Funds. 72-201, 72-258.03.
- 8. Public Buildings. 72-804 to 72-806.
- 12. Investment of State Funds.
  - (a) Nebraska State Funds Investment Act. 72-1243 to 72-1255.

#### ARTICLE 2

#### SCHOOL LANDS AND FUNDS

Section

- 72-201. Board of Educational Lands and Funds; members; appointment; terms; expenses; duties; qualifications; organization; chairperson; meetings; secretary.
- 72-258.03. School lands; sale; appraised value.

**72-201 Board of Educational Lands and Funds; members; appointment; terms; expenses; duties; qualifications; organization; chairperson; meetings; secretary.**

(1) The Board of Educational Lands and Funds shall consist of five members to be appointed by the Governor with the consent of a majority of the members elected to the Legislature. One member shall be appointed from each of the congressional districts as the districts were constituted on January 1, 1961, and a fifth member shall be appointed from the state at large. One member of the board shall be competent in the field of investments. The initial members shall be appointed to take office on October 1, 1955, and shall hold office for the following periods of time: The member from the first congressional district for one year; the member from the second congressional district for two years; the member from the third congressional district for three years; the member from the fourth congressional district for four years; and the member from the state at large for five years. As the terms of the members expire, the Governor shall appoint or reappoint a member of the board for a term of five years, except members appointed to fill vacancies whose tenures shall be the unexpired terms for which they are appointed. If the Legislature is not in session when such members, or some of them, are appointed by the Governor, such members shall take office and act as recess appointees until the Legislature next thereafter convenes. Until October 1, 2011, the compensation of the members shall be forty dollars per day for each day's time actually engaged in the performance of the duties of their office. Before, on, and after October 1, 2011, each member shall be paid his or her necessary traveling expenses incurred while upon business of the board as provided in sections 81-1174 to 81-1177. The board shall cause all school, university, agricultural college, and state college lands, owned by or the title to which may hereafter vest in the state, to be registered, leased, and sold as provided in sections 72-201 to 72-251 and shall have the general management and control of such lands and make necessary rules not provided by law. The funds arising from these lands shall be disposed of in the

manner provided by the Constitution of Nebraska, sections 72-201 to 72-251, and other laws of Nebraska not inconsistent herewith.

(2) No person shall be eligible to membership on the board who is actively engaged in the teaching profession, who holds or has any financial interest in a school land lease, who is a holder of or a candidate for any state office or a member of any state board or commission, or who has not resided in this state for at least three years.

(3) The board shall elect one of its members as chairperson of the Board of Educational Lands and Funds. In the absence of the chairperson, any member of the board may, upon motion duly carried, act in his or her behalf as such chairperson. It shall keep a record of all proceedings and orders made by it. No order shall be made except upon the concurrence of at least three members of the board. It shall make all orders pertaining to the handling of all lands and funds set apart for educational purposes.

(4) The board shall maintain an office in Lincoln and shall meet in its office not less than once each month.

(5) The board may appoint a secretary for the board. The compensation of the secretary shall be payable monthly, as fixed by the board.

**Source:** Laws 1899, c. 69, § 1, p. 300; R.S.1913, § 5845; C.S.1922, § 5181; C.S.1929, § 72-201; Laws 1935, c. 163, § 1, p. 594; Laws 1937, c. 162, § 1, p. 628; C.S.Supp.,1941, § 72-201; R.S.1943, § 72-201; Laws 1945, c. 175, § 1, p. 559; Laws 1951, c. 338, § 3, p. 117; Laws 1953, c. 252, § 1, p. 857; Laws 1955, c. 276, § 1, p. 874; Laws 1955, c. 277, § 1, p. 877; Laws 1961, c. 282, § 5, p. 822; Laws 1965, c. 434, § 1, p. 1383; Laws 1969, c. 589, § 1, p. 2438; Laws 1981, LB 204, § 141; Laws 1999, LB 779, § 12; Laws 2011, LB332, § 1.

Effective date August 27, 2011.

#### Cross References

#### Constitutional provisions:

Board of Educational Lands and Funds, duties, membership, see Article VII, section 6, Constitution of Nebraska.

**Fees,** see sections 25-1280 and 33-104.

**Other provisions relating to the board,** see Chapter 84, article 4.

**State-owned geothermal resources,** authority to lease, see section 66-1104.

### 72-258.03 School lands; sale; appraised value.

For purposes of sales of educational lands at public auction, appraised value is the value established pursuant to section 72-257 or 72-258.

**Source:** Laws 2000, LB 1010, § 1; Laws 2007, LB166, § 2; Laws 2009, LB166, § 3; Laws 2011, LB210, § 3.

Operative date August 27, 2011.

## ARTICLE 8

### PUBLIC BUILDINGS

#### Section

72-804. New state building; code requirements.

72-805. Buildings constructed with state funds; code requirements.

72-806. Enforcement.

### 72-804 New state building; code requirements.

(1) Any new state building shall meet or exceed the requirements of the 2009 International Energy Conservation Code.

(2) Any new lighting, heating, cooling, ventilating, or water heating equipment or controls in a state-owned building and any new building envelope components installed in a state-owned building shall meet or exceed the requirements of the 2009 International Energy Conservation Code.

(3) The State Building Administrator of the Department of Administrative Services, in consultation with the State Energy Office, may specify:

- (a) A more recent edition of the International Energy Conservation Code;
- (b) Additional energy efficiency or renewable energy requirements for buildings; and
- (c) Waivers of specific requirements which are demonstrated through life-cycle cost analysis to not be in the state's best interest. The agency receiving the funding shall be required to provide a life-cycle cost analysis to the State Building Administrator.

**Source:** Laws 1999, LB 755, § 1; Laws 2003, LB 643, § 3; Laws 2004, LB 888, § 1; Laws 2011, LB329, § 1.  
Effective date August 27, 2011.

#### **72-805 Buildings constructed with state funds; code requirements.**

The 2009 International Energy Conservation Code applies to all new buildings constructed in whole or in part with state funds after August 27, 2011. The State Energy Office shall review building plans and specifications necessary to determine whether a building will meet the requirements of this section. The State Energy Office shall provide a copy of its review to the agency receiving funding. The agency receiving the funding shall verify that the building as constructed meets or exceeds the code. The verification shall be provided to the State Energy Office. The State Energy Office shall, in consultation with the State Building Administrator of the Department of Administrative Services, adopt and promulgate rules and regulations to carry out this section.

**Source:** Laws 1999, LB 755, § 2; Laws 2004, LB 888, § 2; Laws 2011, LB329, § 2.  
Effective date August 27, 2011.

#### **72-806 Enforcement.**

The enforcement provisions of Chapter 1 of the 2009 International Energy Conservation Code shall not apply to buildings subject to section 72-804.

**Source:** Laws 1999, LB 755, § 3; Laws 2003, LB 643, § 4; Laws 2004, LB 888, § 3; Laws 2011, LB329, § 3.  
Effective date August 27, 2011.

## **ARTICLE 12**

### **INVESTMENT OF STATE FUNDS**

#### **(a) NEBRASKA STATE FUNDS INVESTMENT ACT**

##### Section

- 72-1243. State investment officer; investment and reinvestment of funds; duties; council; analysis required; plan; contents.
- 72-1246.06. Repealed. Laws 2011, LB 303, § 1.
- 72-1246.07. Repealed. Laws 2011, LB 303, § 1.
- 72-1246.08. Repealed. Laws 2011, LB 303, § 1.
- 72-1255. Investment transactions; Auditor of Public Accounts; postaudits; report.

## (a) NEBRASKA STATE FUNDS INVESTMENT ACT

**72-1243 State investment officer; investment and reinvestment of funds; duties; council; analysis required; plan; contents.**

(1) Except as otherwise specifically provided by law, the state investment officer shall direct the investment and reinvestment of money in all state funds not currently needed and all funds described in section 83-133 and order the purchase, sale, or exchange of securities for such funds. He or she shall notify the State Treasurer of any payment, receipt, or delivery that may be required as a result of any investment decision, which notification shall be the authorization and direction for the State Treasurer to make such disbursement, receipt, or delivery from the appropriate fund.

(2) The council shall have an analysis made of the investment returns that have been achieved on the assets of each retirement system administered by the Public Employees Retirement Board as provided in section 84-1503. By March 31 of each year, the analysis shall be presented to the board and the Nebraska Retirement Systems Committee of the Legislature. The analysis shall be prepared by an independent organization which has demonstrated expertise to perform this type of analysis and for which there exists no conflict of interest in the analysis being provided. The analysis may be waived by the council for any retirement system with assets of less than one million dollars.

(3) By March 31 of each year, the council shall prepare a written plan of action and shall present such plan to the Nebraska Retirement Systems Committee of the Legislature at a public hearing. The plan shall include, but not be limited to, the council's investment portfolios, investment strategies, the duties and limitations of the state investment officer, and an organizational structure of the council's office.

**Source:** Laws 1969, c. 584, § 7, p. 2351; Laws 1971, LB 53, § 7; Laws 1985, LB 335, § 2; Laws 1991, LB 549, § 21; Laws 1996, LB 847, § 24; Laws 2005, LB 503, § 7; Laws 2011, LB509, § 14.  
Operative date July 1, 2011.

**72-1246.06 Repealed. Laws 2011, LB 303, § 1.**

**72-1246.07 Repealed. Laws 2011, LB 303, § 1.**

**72-1246.08 Repealed. Laws 2011, LB 303, § 1.**

**72-1255 Investment transactions; Auditor of Public Accounts; postaudits; report.**

The Auditor of Public Accounts shall conduct, at such time as he or she determines necessary, postaudits of the investment transactions provided for in the Nebraska State Funds Investment Act and shall submit annually a report of his or her findings to the Governor and the state investment officer.

**Source:** Laws 1969, c. 584, § 19, p. 2355; Laws 1997, LB 4, § 4; Laws 2011, LB337, § 5.  
Effective date April 27, 2011.

## CHAPTER 74

### RAILROADS

Article.

14. Light-Density Rail Lines. 74-1401 to 74-1429.

#### ARTICLE 14

#### LIGHT-DENSITY RAIL LINES

Section

74-1401. Repealed. Laws 2011, LB 259, § 5.  
 74-1402. Repealed. Laws 2011, LB 259, § 5.  
 74-1402.01. Repealed. Laws 2011, LB 259, § 5.  
 74-1403. Repealed. Laws 2011, LB 259, § 5.  
 74-1404. Repealed. Laws 2011, LB 259, § 5.  
 74-1405. Repealed. Laws 2011, LB 259, § 5.  
 74-1405.01. Repealed. Laws 2011, LB 259, § 5.  
 74-1405.02. Repealed. Laws 2011, LB 259, § 5.  
 74-1405.03. Repealed. Laws 2011, LB 259, § 5.  
 74-1406. Repealed. Laws 2011, LB 259, § 5.  
 74-1407.01. Repealed. Laws 2011, LB 259, § 5.  
 74-1408. Repealed. Laws 2011, LB 259, § 5.  
 74-1410. Repealed. Laws 2011, LB 259, § 5.  
 74-1410.01. Repealed. Laws 2011, LB 259, § 5.  
 74-1411. Repealed. Laws 2011, LB 259, § 5.  
 74-1411.01. Repealed. Laws 2011, LB 259, § 5.  
 74-1412. Repealed. Laws 2011, LB 259, § 5.  
 74-1412.01. Repealed. Laws 2011, LB 259, § 5.  
 74-1413. Repealed. Laws 2011, LB 259, § 5.  
 74-1414. Repealed. Laws 2011, LB 259, § 5.  
 74-1415. Repealed. Laws 2011, LB 259, § 5.  
 74-1415.01. Repealed. Laws 2011, LB 259, § 5.  
 74-1415.03. Repealed. Laws 2011, LB 259, § 5.  
 74-1415.04. Repealed. Laws 2011, LB 259, § 5.  
 74-1415.05. Repealed. Laws 2011, LB 259, § 5.  
 74-1415.06. Repealed. Laws 2011, LB 259, § 5.  
 74-1419.02. Repealed. Laws 2011, LB 259, § 5.  
 74-1420. Repealed. Laws 2011, LB 259, § 5.  
 74-1420.01. Repealed. Laws 2011, LB 259, § 5.  
 74-1420.02. Repealed. Laws 2011, LB 259, § 5.  
 74-1420.03. Repealed. Laws 2011, LB 259, § 5.  
 74-1427. Political subdivision; expend local tax funds; election; procedure.  
 74-1428.01. Repealed. Laws 2011, LB 259, § 5.  
 74-1428.02. Repealed. Laws 2011, LB 259, § 5.  
 74-1428.03. Repealed. Laws 2011, LB 259, § 5.  
 74-1429. Repealed. Laws 2011, LB 259, § 5.

**74-1401 Repealed. Laws 2011, LB 259, § 5.**

**74-1402 Repealed. Laws 2011, LB 259, § 5.**

**74-1402.01 Repealed. Laws 2011, LB 259, § 5.**

**74-1403 Repealed. Laws 2011, LB 259, § 5.**

**74-1404 Repealed. Laws 2011, LB 259, § 5.**

**74-1405 Repealed. Laws 2011, LB 259, § 5.**

**74-1405.01 Repealed. Laws 2011, LB 259, § 5.**

**74-1405.02 Repealed. Laws 2011, LB 259, § 5.**

**74-1405.03 Repealed. Laws 2011, LB 259, § 5.**

**74-1406 Repealed. Laws 2011, LB 259, § 5.**

**74-1407.01 Repealed. Laws 2011, LB 259, § 5.**

**74-1408 Repealed. Laws 2011, LB 259, § 5.**

**74-1410 Repealed. Laws 2011, LB 259, § 5.**

**74-1410.01 Repealed. Laws 2011, LB 259, § 5.**

**74-1411 Repealed. Laws 2011, LB 259, § 5.**

**74-1411.01 Repealed. Laws 2011, LB 259, § 5.**

**74-1412 Repealed. Laws 2011, LB 259, § 5.**

**74-1412.01 Repealed. Laws 2011, LB 259, § 5.**

**74-1413 Repealed. Laws 2011, LB 259, § 5.**

**74-1414 Repealed. Laws 2011, LB 259, § 5.**

**74-1415 Repealed. Laws 2011, LB 259, § 5.**

**74-1415.01 Repealed. Laws 2011, LB 259, § 5.**

**74-1415.03 Repealed. Laws 2011, LB 259, § 5.**

**74-1415.04 Repealed. Laws 2011, LB 259, § 5.**

**74-1415.05 Repealed. Laws 2011, LB 259, § 5.**

**74-1415.06 Repealed. Laws 2011, LB 259, § 5.**

**74-1419.02 Repealed. Laws 2011, LB 259, § 5.**

**74-1420 Repealed. Laws 2011, LB 259, § 5.**

**74-1420.01 Repealed. Laws 2011, LB 259, § 5.**

**74-1420.02 Repealed. Laws 2011, LB 259, § 5.**

**74-1420.03 Repealed. Laws 2011, LB 259, § 5.**

**74-1427 Political subdivision; expend local tax funds; election; procedure.**

(1) If the governing body of a political subdivision determines that it is necessary or beneficial for the vitality of such political subdivision to expend local tax funds for rehabilitation or improvement of a light-density rail line or rail facility construction, including the issuance of bonds, the governing body shall by resolution place the proposition for such expenditure or bond issue on

the general or primary election ballot or in odd-numbered years only call for a special election in such political subdivision for the purpose of approving such expenditure of local tax funds.

(2) The resolution calling for the election and the election notice shall show the proposed purpose for which such local tax funds will be expended and the amount of money sought.

(3) Notice of the election shall state the date the election is to be held and the hours the polls will be open. Such notice shall be published in a newspaper that is published in or of general circulation in such political subdivision at least once each week for three weeks prior to such election. If no such newspaper exists, notice shall be posted in at least three public places in the political subdivision for at least three weeks prior to such election.

(4) The proposition appearing on the ballot in any election shall state the purpose for which such local tax funds will be spent, the amount of local tax funds to be so expended, and the source from which the revenue will be raised. Such proposition shall be adopted if approved by a majority of those voting in such election.

(5) If a special election is called, the governing body shall prescribe the form of the ballot to be used.

(6) For purposes of this section:

(a) Facility means the track, ties, roadbed, and related structures, including terminals, team tracks and appurtenances, bridges, tunnels, and other structures used or usable for rail service operations;

(b) Light-density rail line means any rail line classified as a light-density line by the United States Department of Transportation;

(c) Rail facility construction means the construction of rail or rail-related facilities, including new connections between two or more existing lines, intermodal freight terminals, sidings, and relocation of existing lines, for the purpose of improving the quality and efficiency of rail freight service; and

(d) Rehabilitation or improvement means replacing, repairing, or upgrading, to the extent necessary to permit adequate and efficient rail freight service, facilities needed to provide service on a rail line.

**Source:** Laws 1980, LB 507, § 27; Laws 1991, LB 783, § 28; Laws 1996, LB 463, § 30; Laws 2011, LB259, § 3.  
Effective date August 27, 2011.

**74-1428.01 Repealed. Laws 2011, LB 259, § 5.**

**74-1428.02 Repealed. Laws 2011, LB 259, § 5.**

**74-1428.03 Repealed. Laws 2011, LB 259, § 5.**

**74-1429 Repealed. Laws 2011, LB 259, § 5.**





## CHAPTER 75

### PUBLIC SERVICE COMMISSION

#### Article.

1. Organization and Composition, Regulatory Scope, and Procedure. 75-101.01, 75-101.02.
3. Motor Carriers.
  - (a) Intrastate Motor Carriers. 75-302 to 75-311.
  - (e) Safety Regulations. 75-363, 75-364.
  - (l) Unified Carrier Registration Plan and Agreement. 75-393.

#### ARTICLE 1

#### ORGANIZATION AND COMPOSITION, REGULATORY SCOPE, AND PROCEDURE

#### Section

- 75-101.01. Public Service Commission; districts; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties.
- 75-101.02. Public service commission districts; population figures and maps; basis.

**75-101.01 Public Service Commission; districts; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties.**

(1) Based on the 2010 Census of Population by the United States Department of Commerce, Bureau of the Census, the State of Nebraska is hereby divided into five public service commissioner districts, and each public service commissioner district shall be entitled to one member.

(2) The numbers and boundaries of the districts are designated and established by maps identified and labeled as maps PSC11-1, PSC11-2, PSC11-3, PSC11-4, and PSC11-5, filed with the Clerk of the Legislature, and incorporated by reference as part of Laws 2011, LB700.

(3)(a) The Clerk of the Legislature shall transfer possession of the maps referred to in subsection (2) of this section to the Secretary of State on May 27, 2011.

(b) When questions of interpretation of district boundaries arise, the maps referred to in subsection (2) of this section in possession of the Secretary of State shall serve as the indication of the legislative intent in drawing the district boundaries.

(c) Each election commissioner or county clerk shall obtain copies of the maps referred to in subsection (2) of this section for the election commissioner's or clerk's county from the Secretary of State.

(d) The Secretary of State shall also have available for viewing on his or her web site the maps referred to in subsection (2) of this section identifying the boundaries for the districts.

**Source:** Laws 1963, c. 174, § 1, p. 596; Laws 1971, LB 955, § 1; Laws 1981, LB 551, § 1; R.S.1943, (1987), § 5-107; Laws 1991, LB 618, § 1; Laws 2001, LB 855, § 2; Laws 2011, LB700, § 1. Effective date May 27, 2011.

**75-101.02 Public service commission districts; population figures and maps; basis.**

For purposes of section 75-101.01, the Legislature adopts the official population figures and maps from the 2010 Census Redistricting (Public Law 94-171) TIGER/Line Shapefiles published by the United States Department of Commerce, Bureau of the Census.

**Source:** Laws 1971, LB 955, § 2; Laws 1981, LB 551, § 2; R.S.1943, (1987), § 5-107.01; Laws 1991, LB 618, § 2; Laws 2001, LB 855, § 3; Laws 2011, LB700, § 2.  
Effective date May 27, 2011.

**ARTICLE 3****MOTOR CARRIERS**

## (a) INTRASTATE MOTOR CARRIERS

Section

75-302. Terms, defined.

75-303. Motor carriers; scope of law.

75-311. Certificates; permits; issuance; review by commission; effect.

## (e) SAFETY REGULATIONS

75-363. Federal motor carrier safety regulations; provisions adopted; exceptions.

75-364. Additional federal motor carrier regulations; provisions adopted.

## (l) UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT

75-393. Unified carrier registration plan and agreement; director; powers.

## (a) INTRASTATE MOTOR CARRIERS

**75-302 Terms, defined.**

For purposes of sections 75-301 to 75-322 and in all rules and regulations adopted and promulgated by the commission pursuant to such sections, unless the context otherwise requires:

(1) Attended services means an attendant or caregiver accompanying a minor or persons who are physically, mentally, or developmentally disabled and unable to travel or wait without assistance or supervision;

(2) Carrier enforcement division means the carrier enforcement division of the Nebraska State Patrol or the Nebraska State Patrol;

(3) Certificate means a certificate of public convenience and necessity issued under Chapter 75, article 3, to common carriers by motor vehicle;

(4) Civil penalty means any monetary penalty assessed by the commission or carrier enforcement division due to a violation of Chapter 75, article 3, or section 75-126 as such section applies to any person or carrier specified in Chapter 75, article 3; any term, condition, or limitation of any certificate or permit issued pursuant to Chapter 75, article 3; or any rule, regulation, or order of the commission, the Division of Motor Carrier Services, or the carrier enforcement division issued pursuant to Chapter 75, article 3;

(5) Commission means the Public Service Commission;

(6) Common carrier means any person who or which undertakes to transport passengers or household goods for the general public in intrastate commerce by motor vehicle for hire, whether over regular or irregular routes, upon the highways of this state;

(7) Contract carrier means any motor carrier which transports passengers or household goods for hire other than as a common carrier designed to meet the distinct needs of each individual customer or a specifically designated class of customers without any limitation as to the number of customers it can serve within the class;

(8) Division of Motor Carrier Services means the Division of Motor Carrier Services of the Department of Motor Vehicles;

(9) Highway means the roads, highways, streets, and ways in this state;

(10) Household goods means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property as the commission may provide by regulation if the transportation of such effects or property, is:

(a) Arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with the intent to use in his or her dwelling; or

(b) Arranged and paid for by another party;

(11) Intrastate commerce means commerce between any place in this state and any other place in this state and not in part through any other state;

(12) Licensed care transportation services means transportation provided by an entity licensed by the Department of Health and Human Services as a child-caring agency as defined in section 71-1902 or child-placing agency as defined in such section or a child care facility licensed under the Child Care Licensing Act to a client of the entity or facility when the person providing transportation services also assists and supervises the passenger or, if the client is a minor, to a family member of a minor when it is necessary for agency or facility staff to accompany or facilitate the transportation in order to provide necessary services and support to the minor. Licensed care transportation services must be incidental to and in furtherance of the social services provided by the entity or facility to the transported client;

(13) Motor carrier means any person other than a regulated motor carrier who or which owns, controls, manages, operates, or causes to be operated any motor vehicle used to transport passengers or property over any public highway in this state;

(14) Motor vehicle means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails;

(15) Permit means a permit issued under Chapter 75, article 3, to contract carriers by motor vehicle;

(16) Person means any individual, firm, partnership, limited liability company, corporation, company, association, or joint-stock association and includes any trustee, receiver, assignee, or personal representative thereof;

(17) Private carrier means any motor carrier which owns, controls, manages, operates, or causes to be operated a motor vehicle to transport passengers or property to or from its facility, plant, or place of business or to deliver to purchasers its products, supplies, or raw materials (a) when such transportation is within the scope of and furthers a primary business of the carrier other than transportation and (b) when not for hire. Nothing in sections 75-301 to 75-322 shall apply to private carriers;

(18) Regulated motor carrier means any person who or which owns, controls, manages, operates, or causes to be operated any motor vehicle used to transport passengers, other than those excepted under section 75-303, or household goods over any public highway in this state;

(19) Residential care means care for a minor or a person who is physically, mentally, or developmentally disabled who resides in a residential home or facility regulated by the Department of Health and Human Services, including, but not limited to, a foster home, treatment facility, group home, or shelter;

(20) Residential care transportation services means transportation services to persons in residential care when such residential care transportation services and residential care are provided as part of a services contract with the Department of Health and Human Services or pursuant to a subcontract entered into incident to a services contract with the department; and

(21) Supported transportation services means transportation services to a minor or for a person who is physically, mentally, or developmentally disabled when the person providing transportation services also assists and supervises the passenger or transportation services to a family member of a minor when it is necessary for provider staff to accompany or facilitate the transportation in order to provide necessary services and support to the minor. Supported transportation services must be provided as part of a services contract with the Department of Health and Human Services or pursuant to a subcontract entered into incident to a services contract with the department, and the driver must meet department requirements for (a) training or experience working with minors or persons who are physically, mentally, or developmentally disabled, (b) training with regard to the specific needs of the client served, (c) reporting to the department, and (d) age. Assisting and supervising the passenger shall not necessarily require the person providing transportation services to stay with the passenger after the transportation services have been provided.

**Source:** Laws 1963, c. 425, art. III, § 2, p. 1375; Laws 1969, c. 606, § 1, p. 2467; Laws 1972, LB 1370, § 1; Laws 1989, LB 78, § 18; Laws 1990, LB 980, § 25; Laws 1993, LB 121, § 464; Laws 1993, LB 412, § 2; Laws 1995, LB 424, § 22; Laws 1996, LB 1218, § 43; Laws 1999, LB 594, § 66; Laws 2006, LB 1069, § 3; Laws 2007, LB358, § 12; Laws 2011, LB112, § 1.

Effective date April 27, 2011.

**Cross References**

Child Care Licensing Act, see section 71-1908.

**75-303 Motor carriers; scope of law.**

Sections 75-301 to 75-322 shall apply to transportation by a motor carrier or the transportation of passengers and household goods by a regulated motor carrier for hire in intrastate commerce except for the following:

(1) A motor carrier for hire in the transportation of school children and teachers to and from school;

(2) A motor carrier for hire operated in connection with a part of a streetcar system;

(3) An ambulance, ambulance owner, hearse, or automobile used exclusively as an incident to conducting a funeral;

(4) A motor carrier exempt by subdivision (1) of this section which hauls for hire (a) persons of a religious, fraternal, educational, or charitable organization, (b) pupils of a school to athletic events, (c) players of American Legion baseball teams when the point of origin or termination is within five miles of the domicile of the carrier, and (d) the elderly as defined in section 13-1203 and their spouses and dependents under a contract with a municipality or county authorized in section 13-1208;

(5) A motor carrier operated by a city and engaged in the transportation of passengers, and such exempt operations shall be no broader than those authorized in intrastate commerce at the time the city or other political subdivision assumed ownership of the operation;

(6) A motor vehicle owned and operated by a nonprofit organization which is exempt from payment of federal income taxes, as provided by section 501(c)(4), Internal Revenue Code, transporting solely persons over age sixty, persons who are spouses and dependents of persons over age sixty, and handicapped persons;

(7) A motor carrier engaged in the transportation of passengers operated by a transit authority created under and acting pursuant to the laws of the State of Nebraska;

(8) A motor carrier operated by a municipality or county, as authorized in section 13-1208, in the transportation of elderly persons;

(9) A motor vehicle having a seating capacity of twenty or less which is operated by a governmental subdivision or a qualified public-purpose organization as defined in section 13-1203 engaged in the transportation of passengers in the state;

(10) A motor vehicle owned and operated by a nonprofit entity organized for the purpose of furnishing electric service;

(11) A motor carrier engaged in attended services under contract or subcontract with the Department of Health and Human Services or with any agency organized under the Nebraska Community Aging Services Act;

(12) A motor carrier engaged in residential care transportation services if the motor carrier complies with the requirements of the Department of Health and Human Services adopted, promulgated, and enforced to protect the safety and well-being of the passengers, including insurance, training, and age requirements;

(13) A motor carrier engaged in supported transportation services if the motor carrier complies with the requirements of the Department of Health and Human Services adopted, promulgated, and enforced to protect the safety and well-being of the passengers, including insurance, training, and age requirements; and

(14) A motor carrier engaged in licensed care transportation services if the motor carrier files a certificate with the commission that such provider meets the minimum driver standards, insurance requirements, and equipment standards prescribed by the commission. Insurance requirements established by the commission shall be consistent with the insurance requirements established by the Department of Health and Human Services for attended services, residential care transportation services, and supported transportation services.

**Source:** Laws 1963, c. 425, art. III, § 3, p. 1376; Laws 1969, c. 606, § 2, p. 2468; Laws 1972, LB 1178, § 1; Laws 1973, LB 54, § 1; Laws

1973, LB 70, § 1; Laws 1973, LB 345, § 2; Laws 1974, LB 762, § 1; Laws 1981, LB 85, § 2; Laws 1981, LB 144, § 8; Laws 1983, LB 98, § 1; Laws 1989, LB 78, § 19; Laws 1993, LB 412, § 3; Laws 1993, LB 413, § 3; Laws 1995, LB 424, § 23; Laws 1996, LB 1218, § 44; Laws 1999, LB 594, § 67; Laws 2011, LB112, § 2. Effective date April 27, 2011.

Cross References

Nebraska Community Aging Services Act, see section 81-2201.

**75-311 Certificates; permits; issuance; review by commission; effect.**

(1) A certificate shall be issued to any qualified applicant authorizing the whole or any part of the operations covered by the application if it is found after notice and hearing that (a) the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of sections 75-301 to 75-322 and the requirements, rules, and regulations of the commission under such sections and (b) the proposed service, to the extent to be authorized by the certificate, whether regular or irregular, passenger or household goods, is or will be required by the present or future public convenience and necessity. Otherwise the application shall be denied.

(2) A permit shall be issued to any qualified applicant therefor authorizing in whole or in part the operations covered by the application if it appears after notice and hearing from the application or from any hearing held on the application that (a) the applicant is fit, willing, and able properly to perform the service of a contract carrier by motor vehicle and to conform to the provisions of such sections and the lawful requirements, rules, and regulations of the commission under such sections and (b) the proposed operation, to the extent authorized by the permit, will be consistent with the public interest by providing services designed to meet the distinct needs of each individual customer or a specifically designated class of customers as defined in subdivision (7) of section 75-302. Otherwise the application shall be denied.

(3) No person shall at the same time hold a certificate as a common carrier and a permit as a contract carrier for transportation of household goods by motor vehicles over the same route or within the same territory unless the commission finds that it is consistent with the public interest and with the policy declared in section 75-301.

(4) After the issuance of a certificate or permit, the commission shall review the operations of all common or contract carriers who hold authority from the commission to determine whether there are insufficient operations in the transportation of household goods to justify the commission's finding that such common or contract carrier has willfully failed to perform transportation under sections 75-301 to 75-322 and rules and regulations promulgated under such sections. If the commission determines that there are insufficient operations, then the commission shall commence proceedings under section 75-315 to revoke the certificate or permit involved.

(5) This section shall not apply to operations pursuant to a contract authorized by sections 75-303.01 and 75-303.02.

**Source:** Laws 1963, c. 425, art. III, § 11, p. 1381; Laws 1969, c. 606, § 6, p. 2471; Laws 1972, LB 1370, § 2; Laws 1974, LB 438, § 2; Laws 1989, LB 78, § 25; Laws 1990, LB 980, § 27; Laws 1993, LB 412,

§ 10; Laws 1994, LB 414, § 74; Laws 1995, LB 424, § 38; Laws 1996, LB 1218, § 50; Laws 2011, LB112, § 3.  
Effective date April 27, 2011.

(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, 2011, 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 Motor Carrier, Broker, Freight Forwarder, And Hazardous Materials 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) 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.

(7) 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.

(8)(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 eight consecutive hours off duty; or
- (ii) For any period after having been on duty sixteen hours following eight 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.

(9) Part 395 - Hours Of Service Of Drivers, as adopted in subsections (3) and (8) of this section, shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes when the transportation of such commodities or supplies occurs within a one-hundred-air-mile radius of the source of the commodities or the distribution point for the supplies when such transportation occurs during the period beginning on February 15 up to and including December 15 of each calendar year.

(10) 49 C.F.R. 390.21 - Marking Of Commercial Motor Vehicles shall not apply to farm trucks and farm truck-tractors registered pursuant to section 60-3,146 and operated solely in intrastate commerce.



(11) 49 C.F.R. 392.9a - Operating Authority shall not apply to Nebraska motor carriers operating commercial motor vehicles solely in intrastate commerce.

(12) 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.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB178, section 21, with LB212, section 7, to reflect all amendments.

**Note:** Changes made by LB212 became effective February 23, 2011. Changes made by LB178 became effective August 27, 2011.

#### 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, 2011, 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, AND 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.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB178, section 22, with LB212, section 8, to reflect all amendments.

**Note:** Changes made by LB212 became effective February 23, 2011. Changes made by LB178 became effective August 27, 2011.

## (I) UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT

**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, 2011, 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.  
Effective date February 23, 2011.

## CHAPTER 76

### REAL PROPERTY

Article.

2. Conveyances.
  - (p) Disclosure Statement. 76-2,120.
9. Documentary Stamp Tax. 76-903.
10. Trust Deeds. 76-1002.
12. Relocation Assistance. 76-1221, 76-1228.
15. Agricultural Lands, Special Provisions.
  - (b) Trusts Holding Agricultural Lands. 76-1507 to 76-1517.
  - (d) Reports on Farming or Ranching. 76-1523.
22. Real Property Appraiser Act. 76-2223.
24. Agency Relationships. 76-2402 to 76-2430.
30. Wind Agreements. 76-3001.
31. Private Transfer Fee Obligation Act. 76-3101 to 76-3112.
32. Nebraska Appraisal Management Company Registration Act. 76-3201 to 76-3220.
33. Oil Pipeline Reclamation Act. 76-3301 to 76-3306.

#### ARTICLE 2

#### CONVEYANCES

##### (p) DISCLOSURE STATEMENT

Section

76-2,120. Written disclosure statement required, when; contents; delivery; liability; noncompliance; effect; State Real Estate Commission; rules and regulations.

##### (p) DISCLOSURE STATEMENT

**76-2,120 Written disclosure statement required, when; contents; delivery; liability; noncompliance; effect; State Real Estate Commission; rules and regulations.**

(1) For purposes of this section:

(a) Ground lease coupled with improvements shall mean a lease for a parcel of land on which one to four residential dwelling units have been constructed;

(b) Purchaser shall mean a person who acquires, attempts to acquire, or succeeds to an interest in land;

(c) Residential real property shall mean real property which is being used primarily for residential purposes on which no fewer than one or more than four dwelling units are located; and

(d) Seller shall mean an owner of real property who sells or attempts to sell, including lease with option to purchase, residential real property, whether an individual, partnership, limited liability company, corporation, or trust. A sale of a residential dwelling which is subject to a ground lease coupled with improvements shall be a sale of residential real property for purposes of this subdivision.

(2) Each seller of residential real property located in Nebraska shall provide the purchaser with a written disclosure statement of the real property's condition. The disclosure statement shall be executed by the seller. The requirements

of this section shall also apply to a sale of improvements which contain residential real property when the improvements are sold coupled with a ground lease and to any lease with the option to purchase residential real property.

(3) The disclosure statement shall include language at the beginning which states:

(a) That the statement is being completed and delivered in accordance with Nebraska law;

(b) That Nebraska law requires the seller to complete the statement;

(c) The real property's address and legal description;

(d) That the statement is a disclosure of the real property's condition as known by the seller on the date of disclosure;

(e) That the statement is not a warranty of any kind by the seller or any agent representing a principal in the transaction;

(f) That the statement should not be accepted as a substitute for any inspection or warranty that the purchaser may wish to obtain;

(g) That even though the information provided in the statement is not a warranty, the purchaser may rely on the information in deciding whether and on what terms to purchase the real property;

(h) That any agent representing a principal in the transaction may provide a copy of the statement to any other person in connection with any actual or possible sale of the real property; and

(i) That the information provided in the statement is the representation of the seller and not the representation of any agent and that the information is not intended to be part of any contract between the seller and purchaser.

(4) In addition to the requirements of subsection (3) of this section, the disclosure statement shall disclose the condition of the real property and any improvements on the real property, including:

(a) The condition of all appliances that are included in the sale and whether the appliances are in working condition;

(b) The condition of the electrical system;

(c) The condition of the heating and cooling systems;

(d) The condition of the water system;

(e) The condition of the sewer system;

(f) The condition of all improvements on the real property and any defects that materially affect the value of the real property or improvements;

(g) Any hazardous conditions, including substances, materials, and products on the real property which may be an environmental hazard;

(h) Any title conditions which affect the real property, including encroachments, easements, and zoning restrictions;

(i) The utility connections and whether they are public, private, or community; and

(j) The existence of any private transfer fee obligation as defined in section 76-3107.

(5) The disclosure statement shall be completed to the best of the seller's belief and knowledge as of the date the disclosure statement is completed and

signed by the seller. If any information required by the disclosure statement is unknown to the seller, the seller may indicate that fact on the disclosure statement and the seller shall be in compliance with this section. On or before the effective date of any contract which binds the purchaser to purchase the real property, the seller shall update the information on the disclosure statement whenever the seller has knowledge that information on the disclosure statement is no longer accurate.

(6) This section shall not apply to a transfer:

(a) Pursuant to a court order, a foreclosure sale, or a sale by a trustee under a power of sale in a deed of trust;

(b) By a trustee in bankruptcy;

(c) To a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustor or successor in interest;

(d) By a mortgagee, a beneficiary under a deed of trust, or a seller under a land contract who has acquired the real property at a sale conducted pursuant to a power of sale under a deed of trust, at a sale pursuant to a court-ordered foreclosure, or by a deed in lieu of foreclosure;

(e) By a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust except when the fiduciary is also the occupant or was an occupant of one of the dwelling units being sold;

(f) From one or more co-owners to one or more other co-owners;

(g) Made to a spouse or to a person or persons in the lineal line of consanguinity of one or more of the transferors;

(h) Between spouses resulting from a decree of dissolution of marriage or a decree of legal separation or from a property settlement agreement incidental to such a decree;

(i) Pursuant to a merger, consolidation, sale, or transfer of assets of a corporation pursuant to a plan of merger or consolidation filed with the Secretary of State;

(j) To or from any governmental entity;

(k) Of newly constructed residential real property which has never been occupied; or

(l) From a third-party relocation company if the third-party relocation company has provided the prospective purchaser a disclosure statement from the most immediate seller unless the most immediate seller meets one of the exceptions in this section. If a disclosure statement is required, and if a third-party relocation company fails to supply a disclosure statement from its most immediate seller on or before the effective date of any contract which binds the purchaser to purchase the real property, the third-party relocation company shall be liable to the prospective purchaser to the same extent as a seller under this section.

(7) The disclosure statement and any update to the statement shall be delivered by the seller or the agent of the seller to the purchaser or the agent of the purchaser on or before the effective date of any contract which binds the purchaser to purchase the real property, and the purchaser shall acknowledge in writing receipt of the disclosure statement or update.

(8) The seller shall not be liable under this section for any error, inaccuracy, or omission of any information in a disclosure statement if the error, inaccuracy, or omission was not within the personal knowledge of the seller.

(9) A person representing a principal in the transaction shall not be liable under this section for any error, inaccuracy, or omission of any information in a disclosure statement unless that person has knowledge of the error, inaccuracy, or omission on the part of the seller.

(10) A person licensed as a salesperson or broker pursuant to the Nebraska Real Estate License Act shall not be required to verify the accuracy or completeness of any disclosure statement prepared pursuant to this section, and the only obligation of a buyer's agent pursuant to this section is to assure that a copy of the statement is delivered to the buyer on or before the effective date of any purchase agreement which binds the buyer to purchase the property subject to the disclosure statement. This subsection does not limit the duties and obligations provided in section 76-2418 or in subsection (9) of this section with respect to a buyer's agent.

(11) A transfer of an interest in real property subject to this section may not be invalidated solely because of the failure of any person to comply with this section.

(12) If a conveyance of real property is not made in compliance with this section, the purchaser shall have a cause of action against the seller and may recover the actual damages, court costs, and reasonable attorney's fees. The cause of action created by this section shall be in addition to any other cause of action that the purchaser may have. Any action to recover damages under the cause of action shall be commenced within one year after the purchaser takes possession or the conveyance of the real property, whichever occurs first.

(13) The State Real Estate Commission shall adopt and promulgate rules and regulations to carry out this section.

**Source:** Laws 1994, LB 642, § 1; Laws 2002, LB 863, § 1; Laws 2011, LB26, § 13.  
Effective date March 11, 2011.

**Cross References**

Nebraska Real Estate License Act, see section 81-885.

**ARTICLE 9**

**DOCUMENTARY STAMP TAX**

Section

76-903. Design; collection of tax; refund; procedure; disbursement.

**76-903 Design; collection of tax; refund; procedure; disbursement.**

The Tax Commissioner shall design such stamps in such denominations as in his or her judgment will be the most advantageous to all persons concerned. When any deed subject to the tax imposed by section 76-901 is offered for recordation, the register of deeds shall ascertain and compute the amount of the tax due thereon and shall collect such amount as a prerequisite to acceptance of the deed for recordation. If a dispute arises concerning the taxability of the transfer, the register of deeds shall not record the deed until the disputed tax is paid. If a disputed tax has been paid, the taxpayer may file for a refund

pursuant to section 76-908. The taxpayer may also seek a declaratory ruling pursuant to rules and regulations adopted and promulgated by the Department of Revenue. From each two dollars and twenty-five cents of tax collected pursuant to section 76-901, the register of deeds shall retain fifty cents to be placed in the county general fund and shall remit the balance to the State Treasurer who shall credit ninety-five cents of such amount to the Affordable Housing Trust Fund, twenty-five cents of such amount to the Site and Building Development Fund, twenty-five cents of such amount to the Homeless Shelter Assistance Trust Fund, and thirty cents of such amount to the Behavioral Health Services Fund.

**Source:** Laws 1965, c. 463, § 3, p. 1473; Laws 1969, c. 618, § 2, p. 2505; Laws 1983, LB 194, § 3; Laws 1985, LB 236, § 2; Laws 1992, LB 1192, § 10; Laws 1997, LB 864, § 16; Laws 2001, LB 516, § 6; Laws 2001, Spec. Sess., LB 3, § 5; Laws 2005, LB 40, § 7; Laws 2011, LB388, § 14.  
Operative date October 1, 2011.

## ARTICLE 10 TRUST DEEDS

Section  
76-1002. Transfers in trust; real property; purpose.

### **76-1002 Transfers in trust; real property; purpose.**

(1) Transfers in trust of real property may be made to secure (a) existing debts or obligations created simultaneously with the execution of the trust deed, (b) future advances necessary to protect the security, (c) any future advances to be made at the option of the parties, or (d) the performance of an obligation of any other person named in the trust deed to a beneficiary.

(2) Future advances necessary to protect the security shall include, but not be limited to, advances for payment of real property taxes, special assessments, prior liens, hazard insurance premiums, maintenance charges imposed under a condominium declaration or other covenant, and costs of repair, maintenance, or improvements.

(3)(a) Except as provided in subdivision (b) of this subsection, all items identified in subsection (1) of this section are equally secured by the trust deed from the time of filing the trust deed as provided by law and have the same priority as the trust deed over the rights of all other persons who acquire any rights in or liens upon the trust property subsequent to the time the trust deed was filed.

(b)(i) The trustor or his or her successor in title may limit the amount of optional future advances secured by the trust deed under subdivision (1)(c) of this section by filing a notice for record in the office of the register of deeds of each county in which the trust property or some part thereof is situated. A copy of such notice shall be sent by certified mail to the beneficiary at the address of the beneficiary set forth in the trust deed. The amount of such secured optional future advances shall be limited to not less than the amount actually advanced at the time of receipt of such notice by the beneficiary.

(ii) If any optional future advance is made by the beneficiary to the trustor or his or her successor in title after receiving written notice of the filing for record of any trust deed, mortgage, lien, or claim against such trust property, then the

amount of such optional future advance shall be junior to such trust deed, mortgage, lien, or claim. The notice under this subdivision shall be sent by certified mail to the beneficiary at the address of the beneficiary set forth in the trust deed.

(iii) Subdivisions (b)(i) and (ii) of this subsection shall not limit or determine the priority of optional future advances as against construction liens governed by section 52-139.

(4) The reduction to zero or elimination of the obligation evidenced by any of the transfers in trust authorized by this section shall not invalidate the operation of this section as to any future advances unless a notice or release to the contrary is filed for record as provided by law. All right, title, interest, and claim in and to the trust property acquired by the trustor or his or her successors in interest subsequent to the execution of the trust deed shall inure to the trustee as security for the obligation or obligations for which the trust property is conveyed in like manner as if acquired before execution of the trust deed.

**Source:** Laws 1965, c. 451, § 2, p. 1424; Laws 1984, LB 679, § 17; Laws 1988, LB 984, § 1; Laws 1999, LB 277, § 1; Laws 2002, LB 876, § 80; Laws 2002, LB 957, § 31; Laws 2011, LB43, § 1.  
Effective date August 27, 2011.

## ARTICLE 12 RELOCATION ASSISTANCE

### Section

76-1221. Displaced person, defined.

76-1228. Payment to displaced person; amount.

### **76-1221 Displaced person, defined.**

(1) Displaced person means:

(a) Any person who, on or after April 2, 1989, moves from or moves his or her personal property from real property as a result of a written notice of the intent to acquire, the initiation of negotiations for, or the acquisition of such real property, in whole or in part, for a publicly financed project;

(b) Any person who, as a result of a publicly financed project, moves from or moves his or her personal property from real property on which such person is a residential tenant, conducts a small business as defined by criteria established by the lead agency which are consistent with regulations adopted and promulgated by the United States Department of Transportation under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq., as amended, conducts a farm operation, or conducts a business, as a direct result of rehabilitation, demolition, or other displacing activity when such displacement is permanent; or

(c) Solely for purposes of sections 76-1228, 76-1229, and 76-1238, any person who moves from or moves his or her personal property from real property as a direct result of (i) written notice of intent to acquire or the acquisition of other real property, in whole or in part, on which such person conducts a business or farm operation or (ii) the rehabilitation, demolition, or other displacing activity of other real property on which such person conducts a business or a farm operation, when such displacement is permanent.



(2) Displaced person does not include:

(a) A person who is determined by the displacing agency to be in unlawful occupancy of the real property prior to or after the initiation of negotiations for acquisition of the real property or a person who has been evicted for cause;

(b) In any case in which the displacing agency acquires property for a publicly financed project, any person who occupies such property on a rental basis after the property has been acquired by the displacing agency or for a period subject to termination when the property is needed for the project;

(c) A person who moves before the initiation of negotiations for acquisition of the real property unless the agency determines that the person was displaced as a direct result of the program or project;

(d) A person who initially enters into occupancy of the property after the date of its acquisition for the project;

(e) A person who has occupied the property for the purpose of obtaining assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq., as amended;

(f) A person who is not required to relocate permanently as a direct result of a project;

(g) An owner-occupant who moves as a result of the rehabilitation or demolition of the real property or an owner-occupant who moves as a result of an acquisition of real property when the acquisition of the real property meets all the following conditions:

(i) No specific site or real property needs to be acquired, although the agency may limit its search for alternative sites to a general geographic area;

(ii) The real property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the real property within the area is to be acquired within specific time limits;

(iii) The agency will not acquire the real property if negotiations fail to result in an amicable agreement and the owner is so informed in writing; and

(iv) The agency informs the owner in writing of what it believes to be the market value of the real property.

Subdivision (g) of this subsection does not apply to any tenant who must move as a direct result of the acquisition, rehabilitation, or demolition of real property;

(h) An owner-occupant who moves as a result of an acquisition of real property when the acquisition of the real property is for a program or project undertaken by an agency or person that does not have authority to acquire real property by eminent domain, if such agency or person:

(i) Prior to making an offer for the real property, clearly advises the owner that it is unable to acquire the real property if negotiations fail to result in an agreement; and

(ii) Informs the owner in writing of what it believes to be the market value of the real property.

Subdivision (h) of this subsection does not apply to any tenant who must move as a direct result of the acquisition of real property;

(i) A person who the agency determines is not displaced as a direct result of a partial acquisition;

(j) A person who, after receiving a notice of the intent to acquire, the initiation of negotiations, or the acquisition of the real property, is notified in writing that he or she will not be displaced for a project;

(k) A person who retains the right of use and occupancy of the real property for life following its acquisition by the agency;

(l) Tenants required to move as a result of the sale of their dwelling to a person using downpayment assistance authorized by section 102 of the American Dream Downpayment Act, 42 U.S.C. 12821, as amended; or

(m) A person who has otherwise been determined to be ineligible for relocation assistance pursuant to rules and regulations adopted and promulgated according to law by the lead agency and consistent with 49 C.F.R. 24.208, as amended.

**Source:** Laws 1989, LB 254, § 8; Laws 2011, LB167, § 1.  
Effective date August 27, 2011.

**76-1228 Payment to displaced person; amount.**

(1) Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the head of the displacing agency shall provide for the payment to the displaced person of:

(a) Actual reasonable expenses in moving himself or herself and his or her family, business, farm operation, or other personal property;

(b) Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the head of the agency;

(c) Actual reasonable expenses in searching for a replacement business or farm; and

(d) Actual reasonable expenses necessary to reestablish at its new site a displaced farm, nonprofit organization, or small business as defined by criteria established by the lead agency which are consistent with regulations adopted and promulgated by the United States Department of Transportation under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq., as amended, but not to exceed ten thousand dollars.

(2) The lead agency may adopt and promulgate rules and regulations establishing a reasonable maximum payment under subdivision (1)(c) of this section which are consistent with regulations adopted by the United States Department of Transportation under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq., as amended.

**Source:** Laws 1989, LB 254, § 15; Laws 2011, LB167, § 2.  
Effective date August 27, 2011.

**ARTICLE 15**

**AGRICULTURAL LANDS, SPECIAL PROVISIONS**

(b) TRUSTS HOLDING AGRICULTURAL LANDS

Section

76-1507. Definitions, sections found.

76-1516. Violations; penalty; injunction; Attorney General, county attorney, duties.

## Section

76-1517. Repealed. Laws 2011, LB 160, § 5.

## (d) REPORTS ON FARMING OR RANCHING

76-1523. Corporate trustee; fine; when.

## (b) TRUSTS HOLDING AGRICULTURAL LANDS

**76-1507 Definitions, sections found.**

For purposes of sections 76-1507 to 76-1516, unless the context otherwise requires, the definitions found in sections 76-1508 to 76-1514 shall be used.

**Source:** Laws 1981, LB 9, § 1; Laws 2011, LB160, § 1.  
Effective date August 27, 2011.

**76-1516 Violations; penalty; injunction; Attorney General, county attorney, duties.**

Any trust, other than a family trust, authorized trust, or testamentary trust, violating sections 76-1507 to 76-1516 shall upon conviction be punished by a fine of not more than fifty thousand dollars and shall divest itself of any land acquired in violation of sections 76-1507 to 76-1516 within one year after conviction. The courts of this state may prevent and restrain violations of this section through the issuance of an injunction. The Attorney General or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of sections 76-1507 to 76-1516.

**Source:** Laws 1981, LB 9, § 10; Laws 2011, LB160, § 2.  
Effective date August 27, 2011.

**76-1517 Repealed. Laws 2011, LB 160, § 5.**

## (d) REPORTS ON FARMING OR RANCHING

**76-1523 Corporate trustee; fine; when.**

(1) Any corporate trustee failing to report the information required by section 76-1520 or filing false information shall be punished by a fine of not more than five hundred dollars.

(2) Any fines received pursuant to this section shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

**Source:** Laws 1998, LB 1193, § 4; Laws 2011, LB160, § 3.  
Effective date August 27, 2011.

**ARTICLE 22****REAL PROPERTY APPRAISER ACT**

## Section

76-2223. Real Property Appraiser Board; powers and duties; rules and regulations.

**76-2223 Real Property Appraiser Board; powers and duties; rules and regulations.**

(1) The Real Property Appraiser Board shall administer and enforce the Real Property Appraiser Act and may:

(a) Receive applications for credentialing under the act, process such applications and regulate the issuance of credentials to qualified applicants, and maintain a directory of the names and addresses of persons who receive credentials under the act;

(b) Hold meetings, public hearings, informal conferences, and administrative hearings, prepare or cause to be prepared specifications for all appraiser classifications, solicit bids and enter into contracts with one or more testing services, and administer or contract for the administration of examinations approved by the Appraiser Qualifications Board in such places and at such times as deemed appropriate;

(c) Develop the specifications for credentialing examinations, including timing, location, and security necessary to maintain the integrity of the examinations;

(d) Review the procedures and criteria of a contracted testing service to ensure that the testing meets with the approval of the Appraiser Qualifications Board;

(e) Collect all fees required or permitted by the act. The Real Property Appraiser Board shall remit all such receipts to the State Treasurer for credit to the Real Property Appraiser Fund. In addition, the board may collect and transmit to the appropriate federal authority any fees established under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as the act existed on January 1, 2011;

(f) Establish appropriate administrative procedures for disciplinary proceedings conducted pursuant to the Real Property Appraiser Act;

(g) Issue subpoenas to compel the attendance of witnesses and the production of books, documents, records, and other papers, administer oaths, and take testimony and require submission of and receive evidence concerning all matters within its jurisdiction. In case of disobedience of a subpoena, the Real Property Appraiser Board may make application to the district court of Lancaster County to require the attendance and testimony of witnesses and the production of documentary evidence. If any person fails to obey an order of the court, he or she may be punished by the court as for contempt thereof;

(h) Deny, censure, suspend, or revoke an application or credential if it finds that the applicant or credential holder has committed any of the acts or omissions set forth in section 76-2238 or otherwise violated the act. Any disciplinary matter may be resolved through informal disposition pursuant to section 84-913;

(i) Take appropriate disciplinary action against a credential holder if the Real Property Appraiser Board determines that a credential holder has violated any provision of the act or the Uniform Standards of Professional Appraisal Practice;

(j) Enter into consent decrees and issue cease and desist orders upon a determination that a violation of the act has occurred;

(k) Promote research and conduct studies relating to the profession of real property appraisal, sponsor real property appraisal educational activities, and incur, collect fees for, and pay the necessary expenses in connection with activities which shall be open to all credential holders;

(l) Establish and adopt minimum standards for appraisals as required under section 76-2237;

(m) Adopt and promulgate rules and regulations to carry out the act. The rules and regulations may include provisions establishing minimum standards for schools, courses, and instructors. The rules and regulations shall be adopted pursuant to the Administrative Procedure Act; and

(n) Do all other things necessary to carry out the Real Property Appraiser Act.

(2) The Real Property Appraiser Board shall also administer and enforce the Nebraska Appraisal Management Company Registration Act.

**Source:** Laws 1990, LB 1153, § 23; Laws 1991, LB 203, § 24; Laws 1994, LB 1107, § 19; Laws 2001, LB 162, § 15; Laws 2006, LB 778, § 43; Laws 2007, LB186, § 8; Laws 2008, LB1011, § 6; Laws 2010, LB931, § 7; Laws 2011, LB410, § 21.  
Operative date January 1, 2012.

Cross References

Administrative Procedure Act, see section 84-920.

Nebraska Appraisal Management Company Registration Act, see section 76-3201.

ARTICLE 24

AGENCY RELATIONSHIPS

Section

- 76-2402. Definitions, where found.
- 76-2404.01. Asset management company, defined.
- 76-2405. Brokerage relationship, defined.
- 76-2407. Client, defined.
- 76-2416. Licensee; act as agent, when; agency relationships authorized; compensation, when.
- 76-2417. Seller's agent or landlord's agent; powers and duties; confidentiality; immunity; disclosures required.
- 76-2418. Buyer's agent or tenant's agent; powers and duties; confidentiality; immunity; disclosures required.
- 76-2421. Licensee offering brokerage services; duties.
- 76-2422. Written agreements for brokerage services; when required.
- 76-2422.01. Licensee; asset management company client; exempt from certain requirements.
- 76-2423. Representation; commencement and termination; when.
- 76-2425. Violation; unfair trade practice; commission; powers.
- 76-2427. Designated broker; appointment of limited agent; effect.
- 76-2429. Sections; supersede common law; extent; construction.
- 76-2430. Commission; rules and regulations.

**76-2402 Definitions, where found.**

For purposes of sections 76-2401 to 76-2430, the definitions found in sections 76-2403 to 76-2415 shall be used.

**Source:** Laws 1994, LB 883, § 2; Laws 2011, LB25, § 1.  
Effective date August 27, 2011.

**76-2404.01 Asset management company, defined.**

Asset management company means a business firm or association that, pursuant to a contractual agreement, common-law agency agreement, power of attorney, or other legal authorization, sells, conveys, or otherwise offers an interest in real property that belongs to a (1) bank, savings and loan association, or other financial institution created and regulated pursuant to state or

federal law, (2) mortgage-holding entity chartered by Congress, or (3) federal, state, or local governmental entity.

**Source:** Laws 2011, LB25, § 2.

Effective date August 27, 2011.

**76-2405 Brokerage relationship, defined.**

Brokerage relationship shall mean the relationship created between a designated broker and a client pursuant to sections 76-2401 to 76-2430 relating to the performance of services of a broker as defined in section 81-885.01 and shall also mean the relationship created between the client and the designated broker's affiliated licensees pursuant to sections 76-2401 to 76-2430.

**Source:** Laws 1994, LB 883, § 5; Laws 2011, LB25, § 3.

Effective date August 27, 2011.

**76-2407 Client, defined.**

Client shall mean a seller, landlord, buyer, or tenant who has entered into a brokerage relationship with a licensee pursuant to sections 76-2401 to 76-2430 and is the seller, landlord, buyer, or tenant to whom the licensee owes the duty as set forth in such sections.

**Source:** Laws 1994, LB 883, § 7; Laws 2002, LB 863, § 3; Laws 2011, LB25, § 4.

Effective date August 27, 2011.

**76-2416 Licensee; act as agent, when; agency relationships authorized; compensation, when.**

(1) When engaged in any of the activities enumerated in subdivision (2) of section 81-885.01, a licensee may act as a limited agent in any transaction as a single agent, subagent, or dual agent. The licensee's general duties and obligations arising from the limited agency relationship shall be disclosed to the seller and the buyer or to the landlord and the tenant pursuant to sections 76-2420 to 76-2422. Alternatively, when engaged in any of the activities enumerated in subdivision (2) of section 81-885.01, a licensee may act as an agent in any transaction in accordance with a written contract as described in subsection (6) of section 76-2422.

(2) A licensee shall be considered a buyer's or tenant's limited agent unless:

(a) The designated broker enters into a written seller's agent or landlord's agent agreement with the party to be represented pursuant to subsection (2) of section 76-2422;

(b) The designated broker enters into a subagency agreement with another designated broker pursuant to subsection (5) of section 76-2422;

(c) The designated broker enters into a written dual agency agreement with the parties to be represented pursuant to subsection (4) of section 76-2422; or

(d) The designated broker enters into a written agency agreement pursuant to subsection (6) of section 76-2422.

(3) Sections 76-2401 to 76-2430 shall not obligate any buyer or tenant to pay compensation to a licensee unless the buyer or tenant has entered into a written agreement with the designated broker specifying the compensation terms in accordance with subsection (3) of section 76-2422.

(4) A licensee may work with a single party in separate transactions pursuant to different relationships, including, but not limited to, selling one property as a seller's agent and working with that seller in buying another property as a buyer's agent or as a subagent if the licensee complies with sections 76-2401 to 76-2430 in establishing the relationships for each transaction.

**Source:** Laws 1994, LB 883, § 16; Laws 2011, LB25, § 5.  
Effective date August 27, 2011.

**76-2417 Seller's agent or landlord's agent; powers and duties; confidentiality; immunity; disclosures required.**

(1) A licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations:

- (a) To perform the terms of the written agreement made with the client;
- (b) To exercise reasonable skill and care for the client;
- (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including:
  - (i) Seeking a price and terms which are acceptable to the client, except that the licensee shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract for sale or to seek additional offers to lease the property while the property is subject to a lease or letter of intent to lease;
  - (ii) Except as provided in section 76-2422.01, presenting all written offers to and from the client in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent to lease;
  - (iii) Disclosing in writing to the client all adverse material facts actually known by the licensee; and
  - (iv) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;
- (d) To account in a timely manner for all money and property received;
- (e) To comply with all requirements of sections 76-2401 to 76-2430, the Nebraska Real Estate License Act, and any rules and regulations promulgated pursuant to such sections or act; and
- (f) To comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes and regulations.

(2) A licensee acting as a seller's or landlord's agent shall not disclose any confidential information about the client unless disclosure is required by statute, rule, or regulation or failure to disclose the information would constitute fraudulent misrepresentation. No cause of action for any person shall arise against a licensee acting as a seller's or landlord's agent for making any required or permitted disclosure.

(3)(a) A licensee acting as a seller's or landlord's agent owes no duty or obligation to a buyer, a tenant, or a prospective buyer or tenant, except that a licensee shall disclose in writing to the buyer, tenant, or prospective buyer or tenant all adverse material facts actually known by the licensee. The adverse material facts may include, but are not limited to, adverse material facts

pertaining to: (i) Any environmental hazards affecting the property which are required by law to be disclosed; (ii) the physical condition of the property; (iii) any material defects in the property; (iv) any material defects in the title to the property; or (v) any material limitation on the client's ability to perform under the terms of the contract.

(b) A seller's or landlord's agent owes no duty to conduct an independent inspection of the property for the benefit of the buyer, tenant, or prospective buyer or tenant and owes no duty to independently verify the accuracy or completeness of any statement made by the client or any independent inspector.

(4) A seller's or landlord's agent may show alternative properties not owned by the client to prospective buyers or tenants and may list competing properties for sale or lease without breaching any duty or obligation to the client.

(5)(a) A seller or landlord may agree in writing with a seller's or landlord's agent that other designated brokers may be retained and compensated as subagents.

(b) Any designated broker acting as a subagent on the seller's or landlord's behalf shall be a limited agent with the obligations and responsibilities set forth in subsections (1) through (4) of this section.

**Source:** Laws 1994, LB 883, § 17; Laws 2002, LB 863, § 4; Laws 2011, LB25, § 6.

Effective date August 27, 2011.

**76-2418 Buyer's agent or tenant's agent; powers and duties; confidentiality; immunity; disclosures required.**

(1) A licensee representing a buyer or tenant as a buyer's or tenant's agent shall be a limited agent with the following duties and obligations:

(a) To perform the terms of any written agreement made with the client;

(b) To exercise reasonable skill and care for the client;

(c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including:

(i) Seeking a price and terms which are acceptable to the client, except that the licensee shall not be obligated to seek other properties while the client is a party to a contract to purchase property or to a lease or letter of intent to lease;

(ii) Except as provided in section 76-2422.01, presenting all written offers to and from the client in a timely manner regardless of whether the client is already a party to a contract to purchase property or is already a party to a contract or a letter of intent to lease;

(iii) Disclosing in writing to the client adverse material facts actually known by the licensee; and

(iv) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;

(d) To account in a timely manner for all money and property received;

(e) To comply with all requirements of sections 76-2401 to 76-2430, the Nebraska Real Estate License Act, and any rules and regulations promulgated pursuant to such sections or act; and



(f) To comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes or regulations.

(2) A licensee acting as a buyer's or tenant's agent shall not disclose any confidential information about the client unless disclosure is required by statute, rule, or regulation or failure to disclose the information would constitute fraudulent misrepresentation. No cause of action for any person shall arise against a licensee acting as a buyer's or tenant's agent for making any required or permitted disclosure.

(3)(a) A licensee acting as a buyer's or tenant's agent owes no duty or obligation to a seller, a landlord, or a prospective seller or landlord, except that the licensee shall disclose in writing to any seller, landlord, or prospective seller or landlord all adverse material facts actually known by the licensee. The adverse material facts may include, but are not limited to, adverse material facts concerning the client's financial ability to perform the terms of the transaction.

(b) A buyer's or tenant's agent owes no duty to conduct an independent investigation of the client's financial condition for the benefit of the customer and owes no duty to independently verify the accuracy or completeness of statements made by the client or any independent inspector.

(4) A buyer's or tenant's agent may show properties in which the client is interested to other prospective buyers or tenants without breaching any duty or obligation to the client. This section shall not be construed to prohibit a buyer's or tenant's agent from showing competing buyers or tenants the same property and from assisting competing buyers or tenants in attempting to purchase or lease a particular property.

(5)(a) A client may agree in writing with a buyer's or tenant's agent that other designated brokers may be retained and compensated as subagents.

(b) Any designated broker acting as a subagent on the buyer's or tenant's behalf shall be a limited agent with the obligations and responsibilities set forth in subsections (1) through (4) of this section.

**Source:** Laws 1994, LB 883, § 18; Laws 2002, LB 863, § 5; Laws 2011, LB25, § 7.

Effective date August 27, 2011.

**76-2421 Licensee offering brokerage services; duties.**

(1) At the earliest practicable opportunity during or following the first substantial contact with a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with a designated broker, the licensee who is offering brokerage services to that person or who is providing brokerage services for that property shall:

(a) Provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the commission; and

(b) Disclose in writing to that person the types of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose in writing to that person which party the licensee is representing.

(2) When a seller, landlord, buyer, or tenant has already entered into a written agreement for brokerage services with a designated broker or when a buyer or tenant has a brokerage relationship under sections 76-2401 to 76-2430

without a written agreement, no other licensee shall be required to make the disclosures required by this section.

(3) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a licensee working as an agent or subagent of the seller or landlord with a buyer or tenant who is not represented by a licensee shall provide a written disclosure to the customer which contains the following:

(a) A statement that the licensee is an agent for the seller or landlord and is not an agent for the customer; and

(b) A list of the tasks that the agent acting as a seller's or landlord's agent or subagent may perform with the customer.

(4) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a licensee working as an agent or subagent of the buyer or tenant with a seller or landlord who is not represented by a licensee shall provide a written disclosure to the customer which contains the following:

(a) A statement that the licensee is an agent for the buyer or tenant and is not an agent for the customer; and

(b) A list of the tasks that the agent acting as a buyer's or tenant's agent or subagent may perform with the customer.

(5) The written disclosure required pursuant to subsections (1), (3), and (4) of this section shall contain a signature block for the client or customer to acknowledge receipt of the disclosure. The customer's acknowledgment of disclosure shall not constitute a contract with the licensee. If the customer fails or refuses to sign the disclosure, the licensee shall note that fact on a copy of the disclosure and retain the copy.

(6) A licensee shall not be required to give the written disclosures required by this section to a corporation, limited liability company, partnership, limited liability partnership, or similar entity or to any entity which, if doing business in the State of Nebraska, would be required to be registered with the Secretary of State when such corporation, limited liability company, partnership, limited liability partnership, or entity is purchasing, leasing, or selling real property (a) on which there are five or more residential dwelling units, (b) which is subdivided for five or more residential dwelling units, or (c) any portion of which is zoned or assessed by the county assessor as commercial or industrial property.

(7) Disclosures made in accordance with sections 76-2401 to 76-2430 shall be sufficient to disclose brokerage relationships to the public.

**Source:** Laws 1994, LB 883, § 21; Laws 2002, LB 863, § 7; Laws 2011, LB25, § 8.  
Effective date August 27, 2011.

**76-2422 Written agreements for brokerage services; when required.**

(1) All written agreements for brokerage services on behalf of a seller, landlord, buyer, or tenant shall be entered into by the designated broker on behalf of that broker and affiliated licensees, except that the designated broker may authorize affiliated licensees in writing to enter into the written agreements on behalf of the designated broker. A copy of a written agreement for brokerage services shall be left with the client or clients.

(2) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to establish a single agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. Except as provided in section 76-2422.01, the agreement shall include a licensee's duties and responsibilities specified in section 76-2417, the terms of compensation, a fixed date of expiration of the agreement, and whether an offer of subagency may be made to any other designated broker, except that if a licensee is a limited seller's agent for a builder, the terms of compensation may be established for a specific new construction property on or before the builder's acceptance of a contract to sell.

(3) Before or while engaging in any of the acts enumerated in subdivision (2) of section 81-885.01, a designated broker acting as a single agent for a buyer or tenant may enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 76-2418, the terms of compensation, a fixed date of expiration of the agreement, and whether an offer of subagency may be made to any other designated broker.

(4) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to act as a dual agent shall obtain the written consent of the seller and buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The consent shall include a licensee's duties and responsibilities specified in section 76-2419. The requirements of this subsection are met as to a seller or landlord if the written agreement entered into with the seller or landlord complies with this subsection. The requirements of this subsection are met as to a buyer or tenant if a consent or buyer's or tenant's agency agreement is signed by a potential buyer or tenant which complies with this subsection. The consent of the buyer or tenant does not need to refer to a specific property and may refer generally to all properties for which the buyer's or tenant's agent may also be acting as a seller's or landlord's agent and would be a dual agent. If a licensee is acting as a dual agent with regard to a specific property, the seller and buyer or landlord and tenant shall confirm in writing the dual-agency status and the party or parties responsible for paying any compensation prior to or at the time a contract to purchase property or a lease or letter of intent to lease is entered into for the specific property.

(5) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to act as a subagent shall enter into a written contract with the primary designated broker for the client. If a designated broker has made a unilateral offer of subagency, another designated broker can enter into the subagency relationship by the act of disclosing to the customer that he or she is a subagent of the client.

(6) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker who intends to establish an agency relationship with any party or parties to a transaction in which the designated broker's duties and responsibilities exceed those contained in sections 76-2417 and 76-2418 shall enter into a written agency agreement with a party or parties to the transaction to perform services on their behalf. The agreement shall specify the agent's duties and responsibilities, including any duty of confidentiality, and the terms of compensation. Any agreement under this subsection

shall be subject to the common-law requirements of agency applicable to real estate licensees.

**Source:** Laws 1994, LB 883, § 22; Laws 2002, LB 863, § 8; Laws 2005, LB 88, § 1; Laws 2011, LB25, § 9.  
Effective date August 27, 2011.

**76-2422.01 Licensee; asset management company client; exempt from certain requirements.**

(1) A licensee shall be exempt from the requirements of subdivision (1)(c)(ii) of section 76-2417 and subdivision (1)(c)(ii) of section 76-2418 if the client to whom the written offer is required to be presented by such licensee is an asset management company.

(2) A licensee shall be exempt from the provision contained in subsection (2) of section 76-2422 that requires the inclusion of specific duties and responsibilities specified in section 76-2417 in the written agreement if the client is an asset management company.

**Source:** Laws 2011, LB25, § 10.  
Effective date August 27, 2011.

**76-2423 Representation; commencement and termination; when.**

(1)(a) The relationships set forth in sections 76-2401 to 76-2430 shall commence at the time that the licensee begins representing a client and continue until performance or completion of the representation.

(b) If the representation is not performed or completed for any reason, the relationship shall end at the earlier of:

- (i) The date of expiration agreed upon by the parties; or
- (ii) The termination or relinquishment of the relationship by the parties.

(2) Except as otherwise agreed in writing, a licensee shall owe no further duty or obligation after termination or expiration of the contract or representation or completion of performance except the duties of:

(a) Accounting for all money and property related to and received during the relationship; and

(b) Keeping confidential all information received during the course of the relationship which was made confidential by sections 76-2401 to 76-2430, by instructions from the client, or by the policy of the designated broker unless:

- (i) The client to whom the information pertains grants written consent to disclose the information; or
- (ii) Disclosure of the information is required by law.

**Source:** Laws 1994, LB 883, § 23; Laws 2011, LB25, § 11.  
Effective date August 27, 2011.

**76-2425 Violation; unfair trade practice; commission; powers.**

Violation of any provision of sections 76-2401 to 76-2430 by a licensee shall constitute an unfair trade practice pursuant to section 81-885.24 for which the

commission may investigate and take administrative action against the licensee pursuant to the Nebraska Real Estate License Act.

**Source:** Laws 1994, LB 883, § 25; Laws 2011, LB25, § 12.  
Effective date August 27, 2011.

**Cross References**

Nebraska Real Estate License Act, see section 81-885.

**76-2427 Designated broker; appointment of limited agent; effect.**

A designated broker entering into a limited agency agreement with a client for the listing of property or for the purpose of representing that person in the buying, selling, exchanging, renting, or leasing of real estate may appoint in writing those affiliated licensees who will be acting as limited agents of that client to the exclusion of all other affiliated licensees. A designated broker shall not be considered to be a dual agent solely because he or she makes an appointment under this section, except that any licensee who personally represents both the seller and buyer or both the landlord and tenant in a particular transaction shall be a dual agent and shall be required to comply with the provisions of sections 76-2401 to 76-2430 governing dual agents.

**Source:** Laws 1994, LB 883, § 27; Laws 2011, LB25, § 13.  
Effective date August 27, 2011.

**76-2429 Sections; supersede common law; extent; construction.**

Sections 76-2401 to 76-2430 shall supersede the duties and responsibilities of the parties under the common law, including fiduciary responsibilities of an agent to a principal, except as provided in subsection (6) of section 76-2422. Sections 76-2401 to 76-2430 shall be construed broadly to accomplish their purposes.

**Source:** Laws 1994, LB 883, § 29; Laws 2011, LB25, § 14.  
Effective date August 27, 2011.

**76-2430 Commission; rules and regulations.**

The commission shall adopt and promulgate rules and regulations to carry out sections 76-2401 to 76-2430.

**Source:** Laws 1994, LB 883, § 30; Laws 2011, LB25, § 15.  
Effective date August 27, 2011.

**ARTICLE 30**

**WIND AGREEMENTS**

Section  
76-3001. Terms, defined.

**76-3001 Terms, defined.**

For purposes of sections 76-3001 to 76-3004:

(1) Decommissioning security means a security instrument that is posted or given by the wind developer to ensure sufficient funding is available for removal of a wind energy conversion system and reclamation at the end of the useful life of such a system; and

(2) Wind agreement means a right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, wind easement, wind

option, or lease or lease option securing land for the study or production of wind-generated energy or any other instrument executed by or on behalf of any owner of land or air space for the purpose of allowing another party to study the potential for, or to develop, a wind energy conversion system as defined in section 66-909.02 on the land or in the air space.

**Source:** Laws 2009, LB568, § 1; Laws 2011, LB208, § 5.  
Effective date August 27, 2011.

### ARTICLE 31

#### PRIVATE TRANSFER FEE OBLIGATION ACT

##### Section

- 76-3101. Act, how cited.
- 76-3102. Legislative findings and declarations.
- 76-3103. Definitions, where found.
- 76-3104. Environmental covenant, defined.
- 76-3105. Payee, defined.
- 76-3106. Private transfer fee, defined.
- 76-3107. Private transfer fee obligation, defined.
- 76-3108. Transfer, defined.
- 76-3109. Private transfer fee obligation; how treated.
- 76-3110. Recordation of or agreement imposing a private transfer fee obligation; liability.
- 76-3111. Contract for sale of real property subject to private transfer fee obligation; requirements; failure to disclose; rights of buyer.
- 76-3112. Receiver of fee; record document; contents; amendment; payee failure to comply; effect; affidavit; recording; effect.

##### **76-3101 Act, how cited.**

Sections 76-3101 to 76-3112 shall be known and may be cited as the Private Transfer Fee Obligation Act.

**Source:** Laws 2011, LB26, § 1.  
Effective date March 11, 2011.

##### **76-3102 Legislative findings and declarations.**

The Legislature finds and declares that the public policy of this state favors the marketability of real property and the transferability of interests in real property free of title defects or unreasonable restraints on alienation. The Legislature further finds and declares that private transfer fee obligations violate this public policy by impairing the marketability and transferability of real property and by constituting an unreasonable restraint on alienation regardless of the duration of the obligation to pay a private transfer fee, the amount of a private transfer fee, or the method by which any private transfer fee is created or imposed. The Legislature finds and declares that a private transfer fee obligation should not run with the title to property or otherwise bind subsequent owners of property under any common-law or equitable principle.

**Source:** Laws 2011, LB26, § 2.  
Effective date March 11, 2011.

##### **76-3103 Definitions, where found.**

For purposes of the Private Transfer Fee Obligation Act, the definitions in sections 76-3104 to 76-3108 shall be used.

**Source:** Laws 2011, LB26, § 3.  
Effective date March 11, 2011.

**76-3104 Environmental covenant, defined.**

Environmental covenant means a servitude that imposes activity and use limitations on real property and meets the requirements of section 76-2604.

**Source:** Laws 2011, LB26, § 4.  
Effective date March 11, 2011.

**76-3105 Payee, defined.**

Payee means the person who claims the right to receive or collect a private transfer fee payable under a private transfer fee obligation, whether or not the person has a pecuniary interest in the private transfer fee obligation.

**Source:** Laws 2011, LB26, § 5.  
Effective date March 11, 2011.

**76-3106 Private transfer fee, defined.**

Private transfer fee means a fee or charge payable upon the transfer of an interest in real property, or payable for the right to make or accept such transfer, regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the property, the purchase price, or other consideration given for the transfer. Private transfer fee does not include:

(1) Any consideration payable by the grantee to the grantor for the interest in real property being transferred, including any subsequent additional consideration for the property payable by the grantee based upon any subsequent appreciation, development, or sale of the property, if the additional consideration is payable on a one-time basis only and the obligation to make such payment does not bind successors in title to the property. For purposes of this subdivision, an interest in real property may include a separate mineral estate and its appurtenant surface access rights;

(2) Any commission payable to a licensed real estate broker or salesperson for the transfer of real property pursuant to an agreement between the broker or salesperson and the grantor or the grantee, including any subsequent additional commission for that transfer payable by the grantor or the grantee based upon any subsequent appreciation, development, or sale of the property;

(3) Any interest, charges, fees, or other amounts payable by a borrower to a lender pursuant to a loan secured by a mortgage or trust deed against real property, including any fee payable to the lender for consenting to an assumption of the loan or a transfer of the real property subject to the mortgage or trust deed, any fees or charges payable to the lender for estoppel letters or certificates, and any shared appreciation interest or profit participation or other consideration payable to the lender in connection with the loan;

(4) Any rent, reimbursement, charge, fee, or other amount payable by a lessee to a lessor under a lease, including any fee payable to the lessor for consenting to an assignment, subletting, encumbrance, or transfer of the lease;

(5) Any consideration payable to the holder of an option to purchase an interest in real property or the holder of a right of first refusal or first offer to

purchase an interest in real property for waiving, releasing, or not exercising the option or right upon the transfer of the real property to another person;

(6) Any tax, fee, charge, assessment, fine, or other amount payable to or imposed by a governmental authority;

(7) Any fee, charge, assessment, dues, fine, contribution, or other amount payable to a homeowners, condominium, cooperative, mobile home, or property owners association pursuant to a declaration or covenant or bylaw applicable to such association, including fees or charges payable for estoppel letters or certificates issued by the association or its authorized agent;

(8) Any fee, charge, assessment, dues, contribution, or other amount pertaining solely to the purchase or transfer of a club membership relating to real property owned by the member, including any amount determined by reference to the value, purchase price, or other consideration given for the transfer of the real property; or

(9) Any payment required pursuant to an environmental covenant.

**Source:** Laws 2011, LB26, § 6.

Effective date March 11, 2011.

**76-3107 Private transfer fee obligation, defined.**

Private transfer fee obligation means an obligation arising under a declaration or covenant recorded against the title to real property, or under any other contractual agreement or promise, whether or not recorded, that requires or purports to require the payment of a private transfer fee upon a subsequent transfer of an interest in the real property.

**Source:** Laws 2011, LB26, § 7.

Effective date March 11, 2011.

**76-3108 Transfer, defined.**

Transfer means sale, gift, conveyance, assignment, inheritance, or other transfer of an ownership interest in real property located in this state.

**Source:** Laws 2011, LB26, § 8.

Effective date March 11, 2011.

**76-3109 Private transfer fee obligation; how treated.**

A private transfer fee obligation recorded or entered into in this state on or after March 11, 2011, does not run with the title to real property and is not binding on or enforceable at law or in equity against any subsequent owner, purchaser, mortgagee, or trustee of any interest in real property as an equitable servitude or otherwise. Any private transfer fee obligation that is recorded or entered into in this state on or after March 11, 2011, is void and unenforceable. This section shall not be construed to mean that a private transfer fee obligation recorded or entered into in this state before March 11, 2011, is presumed valid and enforceable.

**Source:** Laws 2011, LB26, § 9.

Effective date March 11, 2011.

**76-3110 Recordation of or agreement imposing a private transfer fee obligation; liability.**



Any person who records or enters into an agreement imposing a private transfer fee obligation in his or her favor after March 11, 2011, shall be liable for (1) any and all damages resulting from the imposition of the private transfer fee obligation on the transfer of an interest in the real property, including the amount of any transfer fee paid by a party to the transfer, and (2) all attorney's fees, expenses, and costs incurred by a party to the transfer or mortgagee of the real property to recover any private transfer fee paid or in connection with an action to quiet title. If an agent acts on behalf of a principal to record or secure a private transfer fee obligation, liability shall be assessed to the principal rather than the agent.

**Source:** Laws 2011, LB26, § 10.

Effective date March 11, 2011.

**76-3111 Contract for sale of real property subject to private transfer fee obligation; requirements; failure to disclose; rights of buyer.**

(1) Any contract for the sale of real property subject to a private transfer fee obligation shall include a provision disclosing the existence of that obligation, a description of the obligation, and a statement that private transfer fee obligations are subject to certain prohibitions under the Private Transfer Fee Obligation Act. A contract for sale of real property which does not conform to the requirements of this section shall not be enforceable by the seller against the buyer, nor shall the buyer be liable to the seller for damages under such a contract, and the buyer under such a contract shall be entitled to the return of all deposits made in connection with the sale of the real property.

(2) If a private transfer fee obligation is not disclosed under subsection (1) of this section and a buyer subsequently discovers the existence of such private transfer fee obligation after title to the property has passed to the buyer, the buyer shall have the right to recover (a) any and all damages resulting from the failure to disclose the private transfer fee obligation, including the amount of any private transfer fee paid by the buyer, or the difference between (i) the market value of the real property if it were not subject to a private transfer fee obligation and (ii) the market value of the real property as subject to a private transfer fee obligation, and (b) all attorney's fees, expenses, and costs incurred by the buyer in seeking the buyer's remedies under this subsection.

(3) Any provision in a contract for sale of real property that purports to waive the rights of a buyer under this section shall be void.

**Source:** Laws 2011, LB26, § 11.

Effective date March 11, 2011.

**76-3112 Receiver of fee; record document; contents; amendment; payee failure to comply; effect; affidavit; recording; effect.**

(1) For a private transfer fee obligation in existence prior to March 11, 2011, the receiver of the fee shall, within thirty days after March 11, 2011, or before any transfer of real property subject to the private transfer fee, whichever period is shorter, record against the real property subject to the private transfer fee obligation a separate document in the register of deeds office of the county in which the real property is located that meets all of the following requirements:

(a) The title of the document shall be "Notice of Private Transfer Fee Obligation" in at least fourteen-point, boldface type;

(b) The amount, if the private transfer fee is a flat amount, or the percentage of the sales price constituting the cost of the private transfer fee, or such other basis by which the private transfer fee is to be calculated;

(c) The date or circumstances under which the private transfer fee obligation expires, if any;

(d) The purpose for which the funds from the private transfer fee obligation will be used;

(e) The name of the person to whom funds are to be paid and specific contact information regarding where the funds are to be sent;

(f) The acknowledged signature of the payee; and

(g) The legal description of the real property purportedly burdened by the private transfer fee obligation.

(2) The person to whom the private transfer fee is to be paid may file an amendment to the notice of private transfer fee obligation containing new contact information, but such amendment must contain the recording information of the notice of private transfer fee obligation which it amends and the legal description of the property burdened by the private transfer fee obligation.

(3) If the payee fails to comply fully with subsection (1) of this section, the grantor of any real property burdened by the private transfer fee obligation may proceed with the transfer of any interest in the real property to any grantee and in so doing shall be deemed to have acted in good faith and shall not be subject to any obligations under the private transfer fee obligation. In such event, any transfer of the real property thereafter shall be free and clear of the private transfer fee and private transfer fee obligation.

(4) If the payee fails to provide a written statement of the private transfer fee payable within thirty days after the date of a written request for the same sent to the address shown in the notice of private transfer fee obligation, then the grantor, on recording of the affidavit required under subsection (5) of this section, may transfer any interest in the real property to any grantee without payment of the private transfer fee and shall not be subject to any further obligations under the private transfer fee obligation. In such event, any transfer of the real property shall be free and clear of the private transfer fee and private transfer fee obligation.

(5) An affidavit stating the facts enumerated under subsection (6) of this section shall be recorded in the office of the register of deeds in the county in which the real property is situated prior to or simultaneously with a transfer pursuant to subsection (4) of this section of real property unburdened by a private transfer fee obligation. An affidavit filed under this subsection shall state that the affiant has actual knowledge of, and is competent to testify to, the facts in the affidavit and shall include the legal description of the real property burdened by the private transfer fee obligation, the name of the owner of such real property at the time of the signing of such affidavit, a reference by recording information to the instrument of record containing the private transfer fee obligation, and an acknowledgment that the affiant is testifying under penalty of perjury.

(6) When recorded, an affidavit as described in subsection (5) of this section shall constitute prima facie evidence that:

(a) A request for the written statement of the private transfer fee payable in order to obtain a release of the fee imposed by the private transfer fee obligation was sent to the address shown in the notification; and

(b) The entity listed on the notice of private transfer fee obligation failed to provide the written statement of the private transfer fee payable within thirty days after the date of the notice sent to the address shown in the notification.

**Source:** Laws 2011, LB26, § 12.

Effective date March 11, 2011.

**ARTICLE 32**

**NEBRASKA APPRAISAL MANAGEMENT  
COMPANY REGISTRATION ACT**

Section

- 76-3201. Act, how cited.
- 76-3202. Terms, defined.
- 76-3203. Registration; application; contents; form; surety bond; renewal.
- 76-3204. Act; exemptions.
- 76-3205. Company not domiciled in state; service of process.
- 76-3206. Board; fees.
- 76-3207. Applicant for registration; fingerprint submission; criminal history record check; costs.
- 76-3208. Prohibited acts.
- 76-3209. Verification of appraiser license or certification.
- 76-3210. Performance of Uniform Standards of Professional Appraisal Practice standard 3 appraisal review.
- 76-3211. Verification of license or certification status.
- 76-3212. Records; retention.
- 76-3213. Completed appraisal report; limit on change.
- 76-3214. Board; issue registration number; maintain list; disclosure on engagement documents.
- 76-3215. Payment of fees; appraiser added to appraiser panel; removal; complaint; hearing; board; duties.
- 76-3216. Board; violations; enforcement actions; fine; considerations.
- 76-3217. Violations; disciplinary hearings; notice; procedure.
- 76-3218. Rules and regulations.
- 76-3219. Appraisal Management Company Fund; created; use; investment.
- 76-3220. Material noncompliance; referral to board.

**76-3201 Act, how cited.**

Sections 76-3201 to 76-3220 shall be known and may be cited as the Nebraska Appraisal Management Company Registration Act.

**Source:** Laws 2011, LB410, § 1.

Operative date January 1, 2012.

**76-3202 Terms, defined.**

For purposes of the Nebraska Appraisal Management Company Registration Act:

- (1) Appraisal has the same meaning as in section 76-2204;
- (2) Appraisal Foundation has the same meaning as in section 76-2205;
- (3) Appraisal management company means, in connection with valuing real property collateralizing mortgage loans, mortgages, or trust deeds incorporated into a securitization, any external third party that oversees a network or panel of more than fifteen certified or licensed appraisers in this state or twenty-five

or more certified or licensed appraisers nationally within a given year and that is authorized, either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets:

- (a) To recruit, select, and retain appraisers;
- (b) To contract with certified or licensed appraisers to perform real property appraisal activity;
- (c) To manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for appraisal services provided, and reimbursing appraisers for appraisal services performed; or
- (d) To review and verify the work of appraisers;
- (4) Appraisal practice has the same meaning as in section 76-2205.01;
- (5) Appraisal report has the same meaning as in section 76-2206;
- (6) Appraisal review means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of a real property appraisal activity, except that a quality control examination of an appraisal report shall not be an appraisal review;
- (7) Appraisal services means residential valuation assignments performed by an individual acting as an appraiser, including, but not limited to, appraisal, appraisal review, or consulting services;
- (8) Appraiser means an individual who holds a license or certification as an appraiser and is expected to perform valuation assignments competently and in a manner that is independent, impartial, and objective;
- (9) Appraiser panel means a group of licensed or certified independent appraisers that have been selected to perform appraisal services for a third party;
- (10) Board means the Real Property Appraiser Board;
- (11) Consulting service has the same meaning as in section 76-2211.01;
- (12) Controlling person means:
  - (a) An officer or director of, or owner of greater than a ten percent interest in, a corporation, partnership, or other business entity seeking to act or acting as an appraisal management company in this state;
  - (b) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of services requiring registration as an appraisal management company and that has the authority to enter into agreements with appraisers for the performance of appraisals; or
  - (c) An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company;
- (13) Federal financial institution regulatory agency means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, or the successor of any of such agencies;

(14) Federally related transaction means any real estate-related financial transaction which:

(a) A federal financial institution regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and

(b) Requires the services of an appraiser;

(15) Owned and controlled means direct or indirect ownership or control of more than twenty-five percent of the voting shares of an appraisal management company;

(16) Person means an individual, firm, partnership, limited partnership, limited liability company, association, corporation, or other group engaged in joint business activities, however organized;

(17) Quality control examination means an examination of an appraisal report for compliance and completeness, including grammatical, typographical, or other similar errors;

(18) Real estate has the same meaning as in section 76-2214;

(19) Real estate-related financial transaction means any transaction involving:

(a) The sale, lease, purchase, investment in, or exchange of real property, including interests in real property or the financing thereof;

(b) The refinancing of real property or interests in real property; or

(c) The use of real property or interests in real property as security for a loan or investment, including mortgage-backed securities;

(20) Real property has the same meaning as in section 76-2217;

(21) Real property appraisal activity has the same meaning as in section 76-2215;

(22) Relocation management company means a business entity in which the preponderance of its business services include relocation of employees as an agent or contracted service provider to the employer for the purposes of determining an anticipated sales price for the residence of an employee being relocated by the employer;

(23) Uniform Standards of Professional Appraisal Practice has the same meaning as in section 76-2213.01; and

(24) Valuation assignment has the same meaning as in section 76-2219.

**Source:** Laws 2011, LB410, § 2.

Operative date January 1, 2012.

**76-3203 Registration; application; contents; form; surety bond; renewal.**

(1) It is unlawful for a person to directly or indirectly engage in or attempt to engage in business as an appraisal management company or to advertise or hold itself out as engaging in or conducting business as an appraisal management company in this state without first obtaining a registration issued by the board.

(2) An application for the registration required by subsection (1) of this section shall include the following information:

(a) The name of the person seeking registration and any other name or names, if any, under which it will do business in this state;

- (b) The business address of the person seeking registration;
  - (c) The telephone contact information of the person seeking registration;
  - (d) If the person seeking registration is not a corporation that is domiciled in this state, the name and contact information for the person's agent for service of process in this state;
  - (e) The name, address, and contact information for any person that owns ten percent or more of the person seeking registration;
  - (f) The name, address, and contact information for one controlling person designated as the main contact for all communication between the person seeking registration and the board;
  - (g) A certification that the person seeking registration has a system and process in place to verify that an appraiser selected to the appraiser panel of the person seeking registration holds a license or certification in good standing in this state pursuant to the Real Property Appraiser Act;
  - (h) A certification that the person seeking registration requires appraisers completing appraisal services at the person's request to comply with the Uniform Standards of Professional Appraisal Practice, including the requirements for geographic and product competence;
  - (i) A certification that the person seeking registration has a system in place to verify that only licensed or certified appraisers are used for federally related transactions;
  - (j) A certification that the person seeking registration has a system in place to require that appraisals are conducted independently and free from inappropriate influence and coercion as required by the appraisal independence standards established under section 129E of the federal Truth in Lending Act, as amended, including the requirements for payment of a reasonable and customary fee to appraisers when the appraisal management company is providing appraisal services for a consumer credit transaction secured by the principal dwelling of a consumer;
  - (k) A certification that the person seeking registration maintains a detailed record of each request for appraisal services that it receives and the appraiser that performs the residential real estate appraisal services for the appraisal management company;
  - (l) If the person seeking registration is a nonresident, an irrevocable consent for service of process, if required pursuant to section 76-3205; and
  - (m) Any other information required by the board which is reasonably necessary to implement the Nebraska Appraisal Management Company Registration Act.
- (3) An applicant for registration as an appraisal management company in this state shall submit to the board an application on a form or forms prescribed by the board.
- (4) An applicant for registration as an appraisal management company in this state shall furnish to the board, at the time of making application, a surety bond in the amount of twenty-five thousand dollars. The surety bond required under this subsection shall be issued by a bonding company or insurance company authorized to do business in this state, and a copy of the bond shall be filed with the board. The bond shall be in favor of the state for the benefit of any person who is damaged by any violation of the Nebraska Appraisal Manage-

ment Company Registration Act. The bond shall also be in favor of any person damaged by such a violation. Any person claiming against the bond for a violation of the act may maintain an action at law against the appraisal management company and against the surety. The aggregate liability of the surety to all persons damaged by a violation of the act by an appraisal management company shall not exceed the amount of the bond. The bond shall be maintained until one year after the date that the appraisal management company ceases operation in this state.

(5) A registration issued pursuant to the Nebraska Appraisal Management Company Registration Act shall be valid for two years after the date on which it is issued. An application for the renewal of a registration shall include substantially similar information required for the initial registration as provided in subsection (2) of this section.

**Source:** Laws 2011, LB410, § 3.  
Operative date January 1, 2012.

**Cross References**

**Real Property Appraiser Act**, see section 76-2201.

**76-3204 Act; exemptions.**

The Nebraska Appraisal Management Company Registration Act does not apply to:

(1) A person that exclusively employs persons for the performance of appraisal services. The employer is responsible for ensuring that the appraisal services are performed by employees in accordance with the Uniform Standards of Professional Appraisal Practice;

(2) An appraisal management company that is owned and controlled by a financial institution regulated by a federal financial institution regulatory agency;

(3) An appraiser that enters into an agreement, written or oral, with an appraiser for the performance of appraisal services if upon the completion of the appraisal services the appraisal report is signed by both the appraiser who completed the appraisal services and the appraiser who requested the appraisal services; or

(4) A relocation management company.

**Source:** Laws 2011, LB410, § 4.  
Operative date January 1, 2012.

**76-3205 Company not domiciled in state; service of process.**

Each person seeking registration as an appraisal management company in this state that is not domiciled in this state shall submit an irrevocable consent that service of process upon such person may be made by delivery of the process to the director of the board if the plaintiff cannot, in the exercise of due diligence, effect personal service upon the person in an action against the applicant in a court of this state arising out of the person's activities in this state.

**Source:** Laws 2011, LB410, § 5.  
Operative date January 1, 2012.

**76-3206 Board; fees.**

The board shall charge and collect fees for its services under the Nebraska Appraisal Management Company Registration Act as follows: (1) An application fee of no more than three hundred fifty dollars; (2) an initial registration fee of no more than two thousand dollars; (3) a renewal registration fee of no more than one thousand five hundred dollars; and (4) a late renewal fee of twenty-five dollars for each month or portion of a month the fee is late.

**Source:** Laws 2011, LB410, § 6.  
Operative date January 1, 2012.

**76-3207 Applicant for registration; fingerprint submission; criminal history record check; costs.**

(1) An appraisal management company applying for registration in this state shall not:

(a) In whole or in part, directly or indirectly, be owned by any person who has had an appraiser license or certificate in this state or in any other state refused, denied, canceled, surrendered in lieu of revocation, or revoked; and

(b) Be more than ten percent owned by a person who is not of good moral character, which for purposes of this section shall require that such person has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the appraisal practice or any crime involving fraud, misrepresentation, or moral turpitude.

(2) For purposes of subdivision (1)(b) of this section, each individual owner of more than ten percent of an appraisal management company shall, at the time an application for registration as an appraisal management company is made, submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. The board shall pay the Nebraska State Patrol the costs associated with conducting a fingerprint-based national criminal history record check through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the board.

**Source:** Laws 2011, LB410, § 7.  
Operative date January 1, 2012.

**76-3208 Prohibited acts.**

An appraisal management company that applies to the board for a registration to do business in this state as an appraisal management company shall not:

(1) Knowingly employ any individual to perform appraisal services who has had a license or certificate to act as an appraiser in this state or in any other state refused, denied, canceled, surrendered in lieu of revocation, or revoked;

(2) Knowingly enter into any independent contractor arrangement to perform appraisal services, whether in verbal, written, or other form, with any individual who has had a license or certificate to act as an appraiser in this state or in any other state refused, denied, canceled, surrendered in lieu of revocation, or revoked; or

(3) Knowingly prohibit an appraiser from including within the body of an appraisal report that is submitted by the appraiser to the appraisal manage-



ment company or its assignee the fee that the appraiser was paid by the appraisal management company for the performance of the appraisal report.

**Source:** Laws 2011, LB410, § 8.

Operative date January 1, 2012.

**76-3209 Verification of appraiser license or certification.**

Prior to assigning appraisal orders, an appraisal management company shall have a system in place to verify that an appraiser being added to the appraiser panel holds the appropriate appraiser license or certification in good standing.

**Source:** Laws 2011, LB410, § 9.

Operative date January 1, 2012.

**76-3210 Performance of Uniform Standards of Professional Appraisal Practice standard 3 appraisal review.**

Any employee of or independent contractor to an appraisal management company that performs a Uniform Standards of Professional Appraisal Practice standard 3 appraisal review shall be an appraiser with the proper level of licensure in this state. Quality control examinations are exempt from this requirement as they are not considered a standard 3 review.

**Source:** Laws 2011, LB410, § 10.

Operative date January 1, 2012.

**76-3211 Verification of license or certification status.**

Each appraisal management company seeking to be registered in this state shall certify to the board on a biennial basis on a form prescribed by the board that the appraisal management company has a system in place to verify that an appraiser on the appraiser panel has not had a license or certification as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in any state in the previous twenty-four months.

**Source:** Laws 2011, LB410, § 11.

Operative date January 1, 2012.

**76-3212 Records; retention.**

Each appraisal management company seeking to be registered in this state shall certify to the board on a biennial basis that it maintains a detailed record of each appraisal service request that it receives and of the appraiser who performs the appraisal services for the appraisal management company. Record retention requirements are for a period of five years after appraisal services are completed or two years after final disposition of a judicial proceeding related to the real property appraisal activity, whichever period expires later.

**Source:** Laws 2011, LB410, § 12.

Operative date January 1, 2012.

**76-3213 Completed appraisal report; limit on change.**

An appraisal management company may not alter, modify, or otherwise change a completed appraisal report submitted by an appraiser without the appraiser's written consent.

**Source:** Laws 2011, LB410, § 13.

Operative date January 1, 2012.

**76-3214 Board; issue registration number; maintain list; disclosure on engagement documents.**

(1) The board shall issue a unique registration number to each appraisal management company that is registered in this state.

(2) The board shall maintain a published list of the appraisal management companies that have registered with the board pursuant to the Nebraska Appraisal Management Company Registration Act and have been issued a registration number pursuant to subsection (1) of this section.

(3) An appraisal management company registered in this state shall disclose the registration number provided to it by the board on the engagement documents presented to the appraiser.

**Source:** Laws 2011, LB410, § 14.  
Operative date January 1, 2012.

**76-3215 Payment of fees; appraiser added to appraiser panel; removal; complaint; hearing; board; duties.**

(1) Each appraisal management company registered in this state, except in cases of noncompliance with the conditions of the engagement, shall make payment of fees to an appraiser for the completion of an appraisal or valuation assignment within sixty days after the date on which the appraiser transmits or otherwise provides the completed appraisal report or valuation assignment to the appraisal management company or its assignee.

(2) Except within the first ninety days after an appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company may not remove the appraiser from the appraiser panel of the appraisal management company or otherwise refuse to assign requests for appraisal services to an appraiser on the appraiser panel without:

(a) Notifying the appraiser in writing of the reasons why the appraiser is being removed from the appraiser panel of the appraisal management company; and

(b) Providing an opportunity for the appraiser to respond to the notification from the appraisal management company.

(3) An appraiser who is removed from the appraiser panel of an appraisal management company may file a complaint with the board for a review of the decision of the appraisal management company. The scope of the board's review in any such case is limited to determining that the appraisal management company has complied with subsection (2) of this section and whether a violation of the Real Property Appraiser Act has occurred.

(4) If an appraiser files a complaint against an appraisal management company pursuant to subsection (3) of this section, the board shall adjudicate the complaint within one hundred eighty days after the filing of the complaint.

(5) If, after opportunity for hearing and review, the board determines that an appraisal management company acted improperly in removing the appraiser from the appraiser panel, the board shall:

(a) Provide written findings to the involved parties;

(b) Provide an opportunity for the appraisal management company and the appraiser to respond to the findings; and

(c) Make recommendations for action.

**Source:** Laws 2011, LB410, § 15.

Operative date January 1, 2012.

**Cross References**

Real Property Appraiser Act, see section 76-2201.

**76-3216 Board; violations; enforcement actions; fine; considerations.**

(1) To the extent permitted by any applicable federal legislation or regulation, the board may censure an appraisal management company, conditionally or unconditionally suspend or revoke the registration issued to the appraisal management company under the Nebraska Appraisal Management Company Registration Act, or levy fines or impose civil penalties not to exceed five thousand dollars for a first offense and not to exceed ten thousand dollars for a second or subsequent offense, if the board determines that an appraisal management company is attempting to perform, has performed, or has attempted to perform any of the following:

(a) A material violation of the act;

(b) A violation of any rule or regulation adopted and promulgated by the board; or

(c) Procurement of a registration for itself or any other person by fraud, misrepresentation, or deceit.

(2) In order to promote voluntary compliance, encourage appraisal management companies to correct errors promptly, and ensure a fair and consistent approach to enforcement, the board shall endeavor to impose fines or civil penalties that are reasonable in light of the nature, extent, and severity of the violation. The board shall also take action against an appraisal management company's registration only after less severe sanctions have proven insufficient to ensure behavior consistent with the Nebraska Appraisal Management Company Registration Act. When deciding whether to impose a sanction permitted by subsection (1) of this section, determining the sanction that is most appropriate in a specific instance, or making any other discretionary decision regarding the enforcement of the act, the board shall consider whether an appraisal management company:

(a) Has an effective program reasonably designed to ensure compliance with the act;

(b) Has taken prompt and appropriate steps to correct and prevent the recurrence of any detected violations; and

(c) Has independently reported to the board any significant violations or potential violations of the act prior to an imminent threat of disclosure or investigation and within a reasonably prompt time after becoming aware of the occurrence of such violations.

**Source:** Laws 2011, LB410, § 16.

Operative date January 1, 2012.

**76-3217 Violations; disciplinary hearings; notice; procedure.**

(1) The board shall conduct disciplinary hearings for any violation of the Nebraska Appraisal Management Company Registration Act in accordance with the Administrative Procedure Act.

(2) Before the board may censure, suspend, or revoke the registration of, or levy a fine or civil penalty against, a registered appraisal management company, the board shall notify the company in writing of any charges made under the Nebraska Appraisal Management Company Registration Act at least twenty days prior to the date set for the hearing and shall permit the appraisal management company an opportunity to be heard in person or by counsel. The notice shall be satisfied by personal service on the controlling person of the company or agent for service of process in this state or by sending the notice by certified mail, return receipt requested, to the address of the controlling person of the company that is on file with the board.

(3) Any hearing pursuant to this section shall be heard by a hearing officer at a time and place prescribed by the board. The hearing officer may make findings of fact and shall deliver such findings to the board. The board shall take such disciplinary action as it deems appropriate, subject to the limitations contained within section 76-3216.

**Source:** Laws 2011, LB410, § 17.  
Operative date January 1, 2012.

**Cross References**

**Administrative Procedure Act**, see section 84-920.

**76-3218 Rules and regulations.**

The board may adopt and promulgate rules and regulations not inconsistent with the Nebraska Appraisal Management Company Registration Act which may be reasonably necessary to implement, administer, and enforce the provisions of the act.

**Source:** Laws 2011, LB410, § 18.  
Operative date January 1, 2012.

**76-3219 Appraisal Management Company Fund; created; use; investment.**

The board shall collect all fees and other revenue pursuant to the Nebraska Appraisal Management Company Registration Act and shall remit such fees and revenue to the State Treasurer for credit to the Appraisal Management Company Fund, which is hereby created. The fund shall be used to implement, administer, and enforce the 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 2011, LB410, § 19.  
Operative date January 1, 2012.

**Cross References**

**Nebraska Capital Expansion Act**, see section 72-1269.

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

**76-3220 Material noncompliance; referral to board.**

An appraisal management company that has a reasonable basis to believe that an appraiser has failed to comply with applicable laws or the Uniform Standards of Professional Appraisal Practice shall refer the matter to the board if the failure to comply is material.

**Source:** Laws 2011, LB410, § 20.  
Operative date January 1, 2012.

## ARTICLE 33

## OIL PIPELINE RECLAMATION ACT

## Section

- 76-3301. Act, how cited.  
76-3302. Terms, defined.  
76-3303. Purpose of act.  
76-3304. Pipeline carrier; responsible for reclamation costs; commencement of reclamation; period of obligation.  
76-3305. Additional reclamation costs.  
76-3306. Act; minimum standards; effect of negotiated agreement with landowner; duties under federal law or permits.

**76-3301 Act, how cited.**

Sections 76-3301 to 76-3306 shall be known and may be cited as the Oil Pipeline Reclamation Act.

**Source:** Laws 2011, LB629, § 1.  
Effective date May 27, 2011.

**76-3302 Terms, defined.**

For purposes of the Oil Pipeline Reclamation Act:

- (1) Oil means petroleum of any kind or in any form, including crude oil or any fraction of crude oil;
- (2) Pipeline carrier means a person that engages in owning, operating, or managing a pipeline or part of a pipeline for the transportation of oil but does not include an entity under the jurisdiction of the Nebraska Oil and Gas Conservation Commission for in-field flow-lines and gathering lines;
- (3) Reclamation means restoration of the areas through which a pipeline is constructed as close as reasonably practicable to the condition, contour, and vegetation that existed prior to construction; and
- (4) Reclamation costs include, but are not limited to, the costs of restoration of real and personal property, the costs of restoration of natural resources, the costs of rehabilitation of habitat or wildlife, and the costs of revegetation.

**Source:** Laws 2011, LB629, § 2.  
Effective date May 27, 2011.

**76-3303 Purpose of act.**

The purpose of the Oil Pipeline Reclamation Act is to ensure that a pipeline carrier which owns, constructs, operates, or manages a pipeline through this state for the transportation of oil is financially responsible for reclamation costs relating to the construction, operation, and management of the pipeline in this state as prescribed in the act.

**Source:** Laws 2011, LB629, § 3.  
Effective date May 27, 2011.

**76-3304 Pipeline carrier; responsible for reclamation costs; commencement of reclamation; period of obligation.**

- (1) A pipeline carrier owning, operating, or managing a pipeline or part of a pipeline for the transportation of oil in this state shall be responsible for all reclamation costs necessary as a result of constructing the pipeline as well as

reclamation costs resulting from operating the pipeline, except to the extent another party is determined to be responsible.

(2) The pipeline carrier shall commence reclamation of the area through which a pipeline is constructed as soon as reasonably practicable after backfill.

(3) A pipeline carrier's obligation for reclamation and maintenance of the pipeline right-of-way shall continue until the pipeline is permanently decommissioned or removed.

**Source:** Laws 2011, LB629, § 4.  
Effective date May 27, 2011.

**76-3305 Additional reclamation costs.**

Nothing in the Oil Pipeline Reclamation Act prohibits a state agency, county board, city council, or village board from pursuing reclamation costs for the maintenance and repair of roads, bridges, or other infrastructure related to the construction, maintenance, or operation of a pipeline by a pipeline carrier who is subject to the act.

**Source:** Laws 2011, LB629, § 5.  
Effective date May 27, 2011.

**76-3306 Act; minimum standards; effect of negotiated agreement with landowner; duties under federal law or permits.**

The Oil Pipeline Reclamation Act provides the minimum standards to be met by a pipeline carrier. The act is not meant to affect the obligations of a pipeline carrier provided for in a negotiated agreement with a landowner and is not to affect the duties of a pipeline carrier under applicable federal law or permits.

**Source:** Laws 2011, LB629, § 6.  
Effective date May 27, 2011.

## CHAPTER 77

### REVENUE AND TAXATION

#### Article.

1. Definitions. 77-105, 77-123.
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#### ARTICLE 1

#### DEFINITIONS

#### Section

- 77-105. Tangible personal property, intangible personal property, defined.  
 77-123. Omitted property, defined.

#### **77-105 Tangible personal property, intangible personal property, defined.**

The term tangible personal property includes all personal property possessing a physical existence, excluding money. The term tangible personal property also includes trade fixtures, which means machinery and equipment, regardless of the degree of attachment to real property, used directly in commercial, manufacturing, or processing activities conducted on real property, regardless of whether the real property is owned or leased, and all depreciable tangible personal property described in subsection (9) of section 77-202 used in the generation of electricity using wind as the fuel source. The term intangible personal property includes all other personal property, including money.

**Source:** Laws 1921, c. 133, art. I, § 4, p. 545; C.S.1922, § 5811; C.S.1929, § 77-104; Laws 1933, c. 156, § 2, p. 592; C.S.Supp.,1941,

§ 77-104; R.S.1943, § 77-105; Laws 1991, LB 829, § 6; Laws 2007, LB334, § 14; Laws 2010, LB1048, § 10; Laws 2011, LB360, § 1.

Operative date January 1, 2010.

**77-123 Omitted property, defined.**

Omitted property means, for the current tax year, (1) any taxable real property that was not assessed on March 19, except beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, any taxable real property that was not assessed on March 25, and (2) any taxable tangible personal property that was not assessed on May 1. Omitted property also means any taxable real or tangible personal property that was not assessed for any prior tax year. Omitted property does not include property exempt under subdivisions (1)(a) through (d) of section 77-202, listing errors of an item of property on the assessment roll of the county assessor, or clerical errors as defined in section 77-128.

**Source:** Laws 1997, LB 270, § 6; Laws 1998, LB 1104, § 5; Laws 1999, LB 194, § 6; Laws 1999, LB 271, § 3; Laws 2004, LB 973, § 5; Laws 2011, LB384, § 2.

Operative date August 27, 2011.

**ARTICLE 2**

**PROPERTY TAXABLE, EXEMPTIONS, LIENS**

Section

77-202. Property taxable; exemptions enumerated.

77-202.04. Property taxable; exempt status; delivery of copy of final decision; appeal; failure to give notice; effect.

77-202.12. Public property; taxation status; county assessor; duties; appeal.

**77-202 Property taxable; exemptions enumerated.**

(1) The following property shall be exempt from property taxes:

(a) Property of the state and its governmental subdivisions to the extent used or being developed for use by the state or governmental subdivision for a public purpose. For purposes of this subdivision, public purpose means use of the property (i) to provide public services with or without cost to the recipient, including the general operation of government, public education, public safety, transportation, public works, civil and criminal justice, public health and welfare, developments by a public housing authority, parks, culture, recreation, community development, and cemetery purposes, or (ii) to carry out the duties and responsibilities conferred by law with or without consideration. Public purpose does not include leasing of property to a private party unless the lease of the property is at fair market value for a public purpose. Leases of property by a public housing authority to low-income individuals as a place of residence are for the authority's public purpose;

(b) Unleased property of the state or its governmental subdivisions which is not being used or developed for use for a public purpose but upon which a payment in lieu of taxes is paid for public safety, rescue, and emergency services and road or street construction or maintenance services to all governmental units providing such services to the property. Except as provided in



Article VIII, section 11, of the Constitution of Nebraska, the payment in lieu of taxes shall be based on the proportionate share of the cost of providing public safety, rescue, or emergency services and road or street construction or maintenance services unless a general policy is adopted by the governing body of the governmental subdivision providing such services which provides for a different method of determining the amount of the payment in lieu of taxes. The governing body may adopt a general policy by ordinance or resolution for determining the amount of payment in lieu of taxes by majority vote after a hearing on the ordinance or resolution. Such ordinance or resolution shall nevertheless result in an equitable contribution for the cost of providing such services to the exempt property;

(c) Property owned by and used exclusively for agricultural and horticultural societies;

(d) Property owned by educational, religious, charitable, or cemetery organizations, or any organization for the exclusive benefit of any such educational, religious, charitable, or cemetery organization, and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not (i) owned or used for financial gain or profit to either the owner or user, (ii) used for the sale of alcoholic liquors for more than twenty hours per week, or (iii) owned or used by an organization which discriminates in membership or employment based on race, color, or national origin. For purposes of this subdivision, educational organization means (A) an institution operated exclusively for the purpose of offering regular courses with systematic instruction in academic, vocational, or technical subjects or assisting students through services relating to the origination, processing, or guarantying of federally reinsured student loans for higher education or (B) a museum or historical society operated exclusively for the benefit and education of the public. For purposes of this subdivision, charitable organization means an organization operated exclusively for the purpose of the mental, social, or physical benefit of the public or an indefinite number of persons; and

(e) Household goods and personal effects not owned or used for financial gain or profit to either the owner or user.

(2) The increased value of land by reason of shade and ornamental trees planted along the highway shall not be taken into account in the valuation of land.

(3) Tangible personal property which is not depreciable tangible personal property as defined in section 77-119 shall be exempt from property tax.

(4) Motor vehicles required to be registered for operation on the highways of this state shall be exempt from payment of property taxes.

(5) Business and agricultural inventory shall be exempt from the personal property tax. For purposes of this subsection, business inventory includes personal property owned for purposes of leasing or renting such property to others for financial gain only if the personal property is of a type which in the ordinary course of business is leased or rented thirty days or less and may be returned at the option of the lessee or renter at any time and the personal property is of a type which would be considered household goods or personal effects if owned by an individual. All other personal property owned for purposes of leasing or renting such property to others for financial gain shall not be considered business inventory.

(6) Any personal property exempt pursuant to subsection (2) of section 77-4105 or section 77-5209.02 shall be exempt from the personal property tax.

(7) Livestock shall be exempt from the personal property tax.

(8) Any personal property exempt pursuant to the Nebraska Advantage Act shall be exempt from the personal property tax.

(9) Any depreciable tangible personal property used directly in the generation of electricity using wind as the fuel source shall be exempt from the property tax levied on depreciable tangible personal property. Depreciable tangible personal property used directly in the generation of electricity using wind as the fuel source includes, but is not limited to, wind turbines, rotors and blades, towers, trackers, generating equipment, transmission components, substations, supporting structures or racks, inverters, and other system components such as wiring, control systems, switchgears, and generator step-up transformers.

**Source:** Laws 1903, c. 73, § 13, p. 390; R.S.1913, § 6301; Laws 1921, c. 133, art. II, § 2, p. 547; C.S.1922, § 5821; C.S.1929, § 77-202; R.S.1943, § 77-202; Laws 1955, c. 290, § 1, p. 921; Laws 1965, c. 468, § 1, p. 1514; Laws 1965, c. 469, § 1, p. 1516; Laws 1967, c. 494, § 1, p. 1685; Laws 1967, c. 495, § 1, p. 1686; Laws 1971, LB 945, § 2; Laws 1975, LB 530, § 3; Laws 1980, LB 882, § 1; Laws 1980, LB 913, § 1; Laws 1982, LB 383, § 5; Laws 1984, LB 891, § 1; Laws 1985, LB 268, § 1; Laws 1986, LB 732, § 1; Laws 1987, LB 775, § 13; Laws 1988, LB 855, § 3; Laws 1989, Spec. Sess., LB 7, § 2; Laws 1991, LB 829, § 7; Laws 1992, LB 1063, § 53; Laws 1992, Second Spec. Sess., LB 1, § 51; Laws 1994, LB 961, § 7; Laws 1997, LB 271, § 39; Laws 1999, LB 271, § 4; Laws 2002, LB 994, § 10; Laws 2005, LB 312, § 4; Laws 2008, LB1027, § 1; Laws 2010, LB1048, § 11; Laws 2011, LB360, § 2. Operative date January 1, 2010.

**Cross References**

Nebraska Advantage Act, see section 77-5701.

**77-202.04 Property taxable; exempt status; delivery of copy of final decision; appeal; failure to give notice; effect.**

(1) Notice of a county board of equalization's decision granting or denying an application for exemption from taxation for real or tangible personal property shall be mailed or delivered to the applicant and the county assessor by the county clerk within seven days after the date of the board's decision. Persons, corporations, or organizations may appeal denial of an application for exemption by a county board of equalization. Only the county assessor, the Tax Commissioner, or the Property Tax Administrator may appeal the granting of such an exemption by a county board of equalization. Appeals pursuant to this section shall be made to the Tax Equalization and Review Commission in accordance with section 77-5013 within thirty days after the decision of the county board of equalization. The Tax Commissioner or Property Tax Administrator may in his or her discretion intervene in any such appeal pursuant to this section within thirty days after notice by the Tax Equalization and Review Commission that an appeal has been filed pursuant to this section. If the county assessor, Tax Commissioner, or Property Tax Administrator appeals a county board of equalization's final decision granting an exemption from property taxation, the person, corporation, or organization granted such exemption by

the county board of equalization shall be made a party to the appeal and shall be issued a notice of the appeal by the Tax Equalization and Review Commission within thirty days after the appeal is filed.

(2) A copy of the final decision by a county board of equalization shall be delivered electronically to the Tax Commissioner and the Property Tax Administrator within seven days after the date of the board's decision. The Tax Commissioner or the Property Tax Administrator shall have thirty days after the final decision to appeal the decision.

(3) Any owner may petition the Tax Equalization and Review Commission in accordance with section 77-5013, on or before December 31 of each year, to determine the taxable status of real property for that year if a failure to give notice as prescribed by this section prevented timely filing of a protest or appeal provided for in sections 77-202 to 77-202.25.

**Source:** Laws 1963, c. 441, § 4, p. 1461; Laws 1969, c. 642, § 1, p. 2556; Laws 1995, LB 490, § 31; Laws 1997, LB 271, § 43; Laws 2000, LB 968, § 29; Laws 2004, LB 973, § 8; Laws 2005, LB 15, § 3; Laws 2007, LB334, § 18; Laws 2010, LB877, § 1; Laws 2011, LB384, § 3.

Operative date August 27, 2011.

**77-202.12 Public property; taxation status; county assessor; duties; appeal.**

(1) On or before March 1, the county assessor shall send notice to the state or to any governmental subdivision if it has property not being used for a public purpose upon which a payment in lieu of taxes is not made. Such notice shall inform the state or governmental subdivision that the property will be subject to taxation for property tax purposes. The written notice shall contain the legal description of the property and be given by first-class mail addressed to the state's or governmental subdivision's last-known address. If the property is leased by the state or the governmental subdivision to another entity and the lessor does not intend to pay the taxes for the lessee as allowed under subsection (4) of section 77-202.11, the lessor shall immediately forward the notice to the lessee.

(2) The state, governmental subdivision, or lessee may protest the determination of the county assessor that the property is not used for a public purpose to the county board of equalization on or before April 1. The county board of equalization shall issue its decision on the protest on or before May 1.

(3) The decision of the county board of equalization may be appealed to the Tax Equalization and Review Commission on or before June 1. The Tax Commissioner in his or her discretion may intervene in an appeal pursuant to this section within thirty days after notice by the Tax Equalization and Review Commission that an appeal has been filed pursuant to this section.

**Source:** Laws 1999, LB 271, § 9; Laws 2000, LB 968, § 32; Laws 2005, LB 263, § 5; Laws 2007, LB334, § 21; Laws 2011, LB384, § 4.  
Operative date August 27, 2011.

**ARTICLE 3**

**DEPARTMENT OF REVENUE**

Section

77-367. Products and services to identify nonfilers of returns, underreporters, non-payers of taxes, or improper or fraudulent payments; contract authorized; use of proceeds; report.

## Section

77-3,111. Repealed. Laws 2011, LB 378, § 37.

77-3,119. Tax Commissioner; certify population of cities and villages.

**77-367 Products and services to identify nonfilers of returns, underreporters, nonpayers of taxes, or improper or fraudulent payments; contract authorized; use of proceeds; report.**

(1) The Department of Revenue may contract to procure products and services to develop, deploy, or administer systems or programs which identify nonfilers of returns, underreporters, or nonpayers of taxes administered by the department or improper or fraudulent payments made through programs administered by the department. Fees for services, reimbursements, costs incurred by the department, or other remuneration may be funded from the amount of tax, penalty, interest, or other recovery actually collected and shall be paid only after the amount is collected. The Legislature intends to appropriate an amount from the tax, penalty, interest, and other recovery actually collected, not to exceed the amount collected, which is sufficient to pay for services, reimbursements, costs incurred by the department, or other remuneration pursuant to this section. Vendors entering into a contract with the department pursuant to this section are subject to the requirements and penalties of the confidentiality laws of this state regarding tax information.

(2) Ten percent of all proceeds received during each calendar year due to the contracts entered into pursuant to this section shall be deposited in the Department of Revenue Enforcement Fund for purposes of identifying nonfilers, underreporters, nonpayers, and improper or fraudulent payments.

(3) The Tax Commissioner shall report annually to the Revenue Committee of the Legislature and Appropriations Committee of the Legislature on the amount of dollars generated during the previous fiscal year pursuant to this section.

**Source:** Laws 2011, LB642, § 1.

Effective date May 27, 2011.

**77-3,111 Repealed. Laws 2011, LB 378, § 37.**

**77-3,119 Tax Commissioner; certify population of cities and villages.**

(1) The Tax Commissioner shall certify the population of cities and villages to be used for purposes of calculations made pursuant to subdivision (4) of section 18-2603, subdivisions (3)(a) and (b) of section 35-1205, subdivision (1) of section 39-2517, and sections 39-2513 and 77-27,139.02. The Tax Commissioner shall transmit copies of such certification to all interested parties upon request.

(2) The Tax Commissioner shall certify the population of each city and village based upon the most recent federal census. The Tax Commissioner shall determine the most recent federal census for each city and village by using the most recent federal census figures available from (a) the most recent federal decennial census, (b) the most recent federal census update or recount certified by the United States Bureau of the Census, or (c) the most recent federal census figure of the city or village plus the population of territory annexed as calculated in sections 18-1753 and 18-1754.

(3) The Tax Commissioner may adopt and promulgate rules and regulations to carry out this section.

**Source:** Laws 1994, LB 1127, § 1; Laws 1998, LB 1120, § 26; Laws 2000, LB 968, § 33; Laws 2011, LB383, § 2.  
Operative date July 1, 2011.

## ARTICLE 7

### DEPARTMENT OF PROPERTY ASSESSMENT AND TAXATION

Section

77-702. Property Tax Administrator; qualifications; duties.

#### **77-702 Property Tax Administrator; qualifications; duties.**

(1) The Governor shall appoint a Property Tax Administrator with the approval of a majority of the members of the Legislature. The Property Tax Administrator shall have experience and training in the fields of taxation and property appraisal and shall meet all the qualifications required for members of the Tax Equalization and Review Commission under subsections (1) and (2) of section 77-5004. The Property Tax Administrator shall adopt and promulgate rules and regulations to carry out his or her duties through June 30, 2007. Rules, regulations, and forms of the Property Tax Administrator in effect on July 1, 2007, shall be valid rules, regulations, and forms of the Department of Revenue beginning on July 1, 2007.

(2) In addition to any duties, powers, or responsibilities otherwise conferred upon the Property Tax Administrator, he or she shall administer and enforce all laws related to the state supervision of local property tax administration and the central assessment of property subject to property taxation. The Property Tax Administrator shall also advise county assessors regarding the administration and assessment of taxable property within the state and measure assessment performance in order to determine the accuracy and uniformity of assessments.

**Source:** Laws 1999, LB 36, § 22; Laws 2001, LB 465, § 1; Laws 2007, LB334, § 44; Laws 2011, LB210, § 4; Laws 2011, LB384, § 5.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB210, section 4, with LB384, section 5, to reflect all amendments.

**Note:** Changes made by LB384 became operative July 1, 2011. Changes made by LB210 became operative August 27, 2011.

## ARTICLE 9

### INSURANCE COMPANIES

Section

77-918. Prepayment of tax; when due; Premium and Retaliatory Tax Suspense Fund; created; investment.

#### **77-918 Prepayment of tax; when due; Premium and Retaliatory Tax Suspense Fund; created; investment.**

Insurers transacting insurance in this state whose annual tax for the preceding taxable year was four thousand dollars or more shall make prepayments of the annual taxes imposed pursuant to Chapter 77, article 9, and related retaliatory taxes imposed pursuant to Chapter 44, article 1.

Each insurer required to make prepayments shall remit such prepayments on or before April 15, June 15, and September 15 of the current taxable year.

Remittance for such prepayments shall be accompanied by a prepayment form prescribed by the director.

The amount of each such prepayment shall be at least one-fourth of either (1) the total tax paid for the immediately preceding taxable year or (2) eighty percent of the actual tax due for the current taxable year.

The director, for good cause shown, may extend for not more than ten days the time for making a prepayment. The extension may be granted at any time if a request for such extension is filed with the director within or prior to the period for which the extension may be granted. Insurers who fail to pay any premium or retaliatory tax, including prepayments, when due shall pay interest at the rate prescribed by section 45-104.02, as such rate may from time to time be adjusted, until such tax is paid. Any insurer who fails to make the prepayments within the prescribed time period or to obtain an extension shall be subject to the penalties prescribed in section 77-911.

The director shall immediately deposit one-half of the prepayments received in the Premium and Retaliatory Tax Suspense Fund, which fund is hereby created, and one-half of the prepayments received in the General Fund. Commencing with the premium and related retaliatory taxes for the taxable year ending December 31, 2001, and for each taxable year thereafter, the director shall determine the amount of the premium and related retaliatory taxes imposed by section 44-150 or 77-908 paid by insurers writing health insurance in this state, except as otherwise set forth in subdivisions (1) and (2) of section 77-912, and such amount shall be credited to the Comprehensive Health Insurance Pool Distributive Fund. Except as provided in subsection (5) of section 44-4225, on May 1 of each year the director shall transfer all of the interest earned in the Premium and Retaliatory Tax Suspense Fund on the immediately preceding year's prepayments to the General Fund and transfer the balance of the preceding year's prepayments deposited in the Premium and Retaliatory Tax Suspense Fund to the Insurance Tax Fund. Any money in the Premium and Retaliatory Tax Suspense Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 1986, LB 1114, § 17; Laws 1992, Fourth Spec. Sess., LB 1, § 14; Laws 1994, LB 1066, § 81; Laws 2000, LB 1253, § 45; Laws 2011, LB73, § 7.  
Effective date May 18, 2011.

#### Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

## ARTICLE 13

### ASSESSMENT OF PROPERTY

#### Section

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|-------------|--|
| 77-1301.    | Real property; assessment date; notice of preliminary valuation.                   |
| 77-1303.    | Assessment roll.   |
| 77-1311.    | County assessor; duties.   |
| 77-1311.03. | County assessor; systematic inspection and review; adjustment required.            |
| 77-1315.    | Adjustment to real property assessment roll; county assessor; duties; publication. |
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Section	
77-1317.	Real property; assessment; omitted lands; correction; exceptions.
77-1318.	Real property taxes; back interest and penalties; when; appeal.
77-1327.	Legislative intent; Property Tax Administrator; sales file; studies; powers and duties.
77-1330.	Property Tax Administrator and Tax Commissioner; guides for assessors; prepare; issue; failure to implement guide; corrective measures; procedures; cost; payment; State Treasurer; duties; removal of county assessor or deputy from office; appeal.
77-1355.	Repealed. Laws 2011, LB 210, § 17.

**77-1301 Real property; assessment date; notice of preliminary valuation.**

(1) All real property in this state subject to taxation shall be assessed as of January 1 at 12:01 a.m., which assessment shall be used as a basis of taxation until the next assessment.

(2) Beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the county assessor shall provide notice of preliminary valuations to real property owners on or before January 15 of each year. Such notice shall be (a) mailed to the taxpayer or (b) published on a web site maintained by the county assessor or by the county.

(3) The county assessor shall complete the assessment of real property on or before March 19 of each year, except beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the county assessor shall complete the assessment of real property on or before March 25 of each year.

**Source:** Laws 1903, c. 73, § 105, p. 422; R.S.1913, § 6420; Laws 1921, c. 125, § 1, p. 535; C.S.1922, § 5955; Laws 1925, c. 167, § 1, p. 439; C.S.1929, § 77-1601; Laws 1933, c. 130, § 1, p. 507; C.S.Supp.,1941, § 77-1601; R.S.1943, § 77-1301; Laws 1945, c. 188, § 1, p. 581; Laws 1947, c. 251, § 31, p. 823; Laws 1947, c. 255, § 1, p. 835; Laws 1953, c. 270, § 1, p. 891; Laws 1953, c. 269, § 1, p. 889; Laws 1955, c. 288, § 19, p. 913; Laws 1959, c. 355, § 20, p. 1263; Laws 1959, c. 370, § 1, p. 1301; Laws 1963, c. 450, § 1, p. 1474; Laws 1980, LB 742, § 1; Laws 1984, LB 833, § 1; Laws 1987, LB 508, § 36; Laws 1992, LB 1063, § 114; Laws 1992, Second Spec. Sess., LB 1, § 87; Laws 1997, LB 270, § 63; Laws 1999, LB 194, § 15; Laws 2004, LB 973, § 18; Laws 2011, LB384, § 6.

Operative date August 27, 2011.

**77-1303 Assessment roll.**

(1) On or before March 19 of each year, the county assessor or county clerk shall make up an assessment roll of the taxable real property in the county, except beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the county assessor or county clerk shall make up an assessment roll of the taxable real property in the county on or before March 25.

(2) The county assessor or county clerk shall enter in the proper column, opposite each respective parcel, the name of the owner thereof so far as he or she is able to ascertain the same. The assessment roll shall contain columns in

which may be shown the number of acres or lots and the value thereof, the improvements and the value thereof, the total value of the acres or lots and improvements, and the improvements on leased lands and the value and owner thereof and such other columns as may be required.

**Source:** Laws 1903, c. 73, § 106, p. 422; Laws 1905, c. 111, § 1, p. 510; R.S.1913, § 6421; Laws 1919, c. 137, § 1, p. 314; C.S.1922, § 5956; C.S.1929, § 77-1602; Laws 1943, c. 175, § 1, p. 609; R.S.1943, § 77-1303; Laws 1945, c. 189, § 1, p. 583; Laws 1947, c. 250, § 22, p. 795; Laws 1947, c. 251, § 32, p. 824; Laws 1951, c. 264, § 1, p. 892; Laws 1953, c. 270, § 2, p. 893; Laws 1955, c. 288, § 20, p. 915; Laws 1959, c. 355, § 21, p. 1265; Laws 1979, LB 187, § 204; Laws 1981, LB 179, § 10; Laws 1987, LB 508, § 42; Laws 1988, LB 842, § 1; Laws 1992, LB 1063, § 118; Laws 1992, Second Spec. Sess., LB 1, § 91; Laws 1997, LB 270, § 65; Laws 1999, LB 194, § 16; Laws 2004, LB 973, § 19; Laws 2005, LB 263, § 7; Laws 2011, LB384, § 7.  
Operative date August 27, 2011.

#### **77-1311 County assessor; duties.**

The county assessor shall have general supervision over and direction of the assessment of all property in his or her county. In addition to the other duties provided by law, the county assessor shall:

- (1) Annually revise the real property assessment for the correction of errors;
- (2) When a parcel has been assessed and thereafter part or parts are transferred to a different ownership, set off and apportion to each its just and equitable portion of the assessment;
- (3) Obey all rules and regulations made under Chapter 77 and the instructions and orders sent out by the Tax Commissioner and the Tax Equalization and Review Commission;
- (4) Examine the records in the office of the register of deeds and county clerk for the purpose of ascertaining whether the property described in producing mineral leases, contracts, and bills of sale, have been fully and correctly listed and add to the assessment roll any property which has been omitted;
- (5) Prepare the assessment roll as defined in section 77-129 and described in section 77-1303; and
- (6) Beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, provide, between January 15 and March 1 of each year, the opportunity to real property owners to meet in person with the county assessor or the county assessor's designated representative. If the real property owner does not notify the county assessor or the county assessor's designated representative by February 1 of the real property owner's intent to meet in person, the real property owner waives the opportunity to meet in person with the county assessor or the county assessor's designated representative. During such meetings, the county assessor or the county assessor's designated representative shall provide a basis for the property valuation contained in the notice of



preliminary valuation sent pursuant to section 77-1301 and accept any information the property owner provides relevant to the property value.

**Source:** Laws 1903, c. 73, § 113, p. 425; Laws 1905, c. 111, § 3, p. 512; Laws 1909, c. 111, § 1, p. 442; Laws 1911, c. 104, § 12, p. 377; R.S.1913, § 6428; Laws 1921, c. 137, § 1, p. 602; C.S.1922, § 5963; C.S.1929, § 77-1609; Laws 1935, c. 133, § 4, p. 481; Laws 1935, Spec. Sess., c. 14, § 5, p. 91; Laws 1939, c. 28, § 17, p. 155; C.S.Supp.,1941, § 77-1609; R.S.1943, § 77-1311; Laws 1947, c. 250, § 24, p. 796; Laws 1951, c. 257, § 2, p. 882; Laws 1959, c. 370, § 2, p. 1303; Laws 1972, LB 1069, § 3; Laws 1979, LB 187, § 205; Laws 1986, LB 1177, § 33; Laws 1990, LB 821, § 49; Laws 1992, LB 719A, § 165; Laws 1994, LB 1275, § 10; Laws 1995, LB 490, § 121; Laws 1997, LB 270, § 67; Laws 1997, LB 397, § 13; Laws 2001, LB 170, § 5; Laws 2003, LB 292, § 11; Laws 2005, LB 263, § 8; Laws 2007, LB334, § 63; Laws 2011, LB384, § 8.

Operative date August 27, 2011.

**77-1311.03 County assessor; systematic inspection and review; adjustment required.**

On or before March 19 of each year, each county assessor shall conduct a systematic inspection and review by class or subclass of a portion of the taxable real property parcels in the county for the purpose of achieving uniform and proportionate valuations and assuring that the real property record data accurately reflects the property, except beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the inspection and review shall be conducted on or before March 25. The county assessor shall adjust the value of all other taxable real property parcels by class or subclass in the county so that the value of all real property is uniform and proportionate. The county assessor shall determine the portion to be inspected and reviewed each year to assure that all parcels of real property in the county have been inspected and reviewed no less frequently than every six years.

**Source:** Laws 2007, LB334, § 100; Laws 2011, LB384, § 9.

Operative date August 27, 2011.

**77-1315 Adjustment to real property assessment roll; county assessor; duties; publication.**

(1) The county assessor shall, after March 19 and on or before June 1, implement adjustments to the real property assessment roll for actions of the Tax Equalization and Review Commission, except beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the adjustments shall be implemented after March 25 and on or before June 1.

(2) On or before June 1, in addition to the notice of preliminary valuation sent pursuant to section 77-1301, the county assessor shall notify the owner of record as of May 20 of every item of real property which has been assessed at a value different than in the previous year. Such notice shall be given by first-class mail addressed to such owner's last-known address. It shall identify the item of real property and state the old and new valuation, the date of convening

of the county board of equalization, the dates for filing a protest, and the average level of value of all classes and subclasses of real property in the county as determined by the Tax Equalization and Review Commission.

(3) Immediately upon completion of the assessment roll, the county assessor shall cause to be published in a newspaper of general circulation in the county a certification that the assessment roll is complete and notices of valuation changes have been mailed and provide the final date for filing valuation protests with the county board of equalization.

(4) The county assessor shall annually, on or before June 6, post in his or her office and, as designated by the county board, mail to a newspaper of general circulation and to licensed broadcast media in the county the assessment ratios as found in his or her county as determined by the Tax Equalization and Review Commission and any other statistical measures, including, but not limited to, the assessment-to-sales ratio, the coefficient of dispersion, and the price-related differential.

**Source:** Laws 1903, c. 73, § 116, p. 427; Laws 1909, c. 111, § 1, p. 444; R.S.1913, § 6431; C.S.1922, § 5966; Laws 1927, c. 179, § 1, p. 519; C.S.1929, § 77-1612; R.S.1943, § 77-1315; Laws 1947, c. 250, § 26, p. 798; Laws 1947, c. 251, § 34, p. 825; Laws 1953, c. 271, § 1, p. 896; Laws 1953, c. 270, § 4, p. 894; Laws 1953, c. 272, § 1, p. 897; Laws 1959, c. 355, § 22, p. 1266; Laws 1959, c. 370, § 4, p. 1305; Laws 1971, LB 209, § 1; Laws 1979, LB 187, § 206; Laws 1984, LB 660, § 1; Laws 1992, LB 1063, § 120; Laws 1992, Second Spec. Sess., LB 1, § 93; Laws 1994, LB 902, § 16; Laws 1995, LB 452, § 18; Laws 1997, LB 270, § 68; Laws 1999, LB 194, § 17; Laws 2001, LB 156, § 1; Laws 2001, LB 170, § 6; Laws 2002, LB 994, § 12; Laws 2004, LB 973, § 20; Laws 2005, LB 261, § 2; Laws 2011, LB384, § 10.  
Operative date August 27, 2011.

**Cross References**

For date of convening the county board of equalization, see section 77-1502.

**77-1315.01 Overvaluation or undervaluation; county assessor; report.**

After March 19 and on or before July 25 or on or before August 10 in counties that have adopted a resolution to extend the deadline for hearing protests under section 77-1502, the county assessor shall report to the county board of equalization any overvaluation or undervaluation of any real property, except beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the report shall be made after March 25 and on or before July 25 or on or before August 10 in counties that have adopted a resolution to extend the deadline for hearing protests under section 77-1502. The county board of equalization shall consider the report in accordance with section 77-1504.

The current year's assessed valuation of any real property shall not be changed by the county assessor after March 19 except by action of the Tax Equalization and Review Commission or the county board of equalization, except beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the current year's assessed valuation of any real property

shall not be changed after March 25 except by action of the commission or the county board of equalization.

**Source:** Laws 1997, LB 270, § 69; Laws 1999, LB 194, § 18; Laws 2004, LB 973, § 21; Laws 2005, LB 261, § 3; Laws 2005, LB 283, § 1; Laws 2011, LB384, § 11.  
Operative date August 27, 2011.

**77-1317 Real property; assessment; omitted lands; correction; exceptions.**

It shall be the duty of the county assessor to report to the county board of equalization all real property in his or her county that, for any reason, was omitted from the assessment roll for the current year, after the date specified in section 77-123, or any former year. The assessment shall be made by the county board of equalization in accordance with sections 77-1504 and 77-1507. After county board of equalization action pursuant to section 77-1504 or 77-1507, the county assessor shall correct the assessment and tax rolls as provided in section 77-1613.02. No real property shall be assessed for any prior year under this section when such real property has changed ownership otherwise than by will, inheritance, or gift.

**Source:** Laws 1903, c. 73, § 118, p. 428; R.S.1913, § 6433; C.S.1922, § 5968; C.S.1929, § 77-1614; R.S.1943, § 77-1317; Laws 1947, c. 250, § 28, p. 798; Laws 1949, c. 232, § 1, p. 643; Laws 1992, LB 1063, § 121; Laws 1992, Second Spec. Sess., LB 1, § 94; Laws 1997, LB 270, § 71; Laws 1999, LB 194, § 19; Laws 2004, LB 973, § 22; Laws 2011, LB384, § 12.  
Operative date August 27, 2011.

**77-1318 Real property taxes; back interest and penalties; when; appeal.**

All taxes charged under section 77-1317 shall be exempt from any back interest or penalty and shall be collected in the same manner as other taxes levied upon real estate, except for taxes charged on improvements to real property made after September 1, 1980. Interest at the rate provided in section 77-207 and the following penalties and interest on penalties for late reporting or failure to report such improvements pursuant to section 77-1318.01 shall be collected in the same manner as other taxes levied upon real property. The penalty for late reporting or failure to report improvements made to real property after September 1, 1980, shall be as follows: (1) A penalty of twelve percent of the tax due on the improvements for each taxing period for improvements voluntarily filed or reported after March 19 has passed, except beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, after March 25 has passed; and (2) a penalty of twenty percent of the tax due on improvements for each taxing period for improvements not voluntarily reported for taxation purposes after March 19 has passed, except beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, after March 25 has passed. Interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, shall be assessed upon such penalty from the date of delinquency of the tax until paid. No penalty excluding interest shall be charged in excess of one thousand dollars per year. For purposes of this section, improvement shall

mean any new construction of or change to an item of real property as defined in section 77-103.

Any additional taxes, penalties, or interest on penalties imposed pursuant to this section may be appealed in the same manner as appeals are made under section 77-1233.06.

**Source:** Laws 1903, c. 73, § 119, p. 428; R.S.1913, § 6434; C.S.1922, § 5969; C.S.1929, § 77-1615; R.S.1943, § 77-1318; Laws 1980, LB 689, § 2; Laws 1984, LB 835, § 7; Laws 1987, LB 508, § 43; Laws 1990, LB 821, § 51; Laws 1997, LB 270, § 72; Laws 1999, LB 194, § 20; Laws 2004, LB 973, § 23; Laws 2011, LB384, § 13.

Operative date August 27, 2011.

**77-1327 Legislative intent; Property Tax Administrator; sales file; studies; powers and duties.**

(1) It is the intent of the Legislature that accurate and comprehensive information be developed by the Property Tax Administrator and made accessible to the taxing officials and property owners in order to ensure the uniformity and proportionality of the assessments of real property valuations in the state in accordance with law and to provide the statistical and narrative reports pursuant to section 77-5027.

(2) All transactions of real property for which the statement required in section 76-214 is filed shall be available for development of a sales file by the Property Tax Administrator. All transactions with stated consideration of more than one hundred dollars or upon which more than two dollars and twenty-five cents in documentary stamp taxes are paid shall be considered sales. All sales shall be deemed to be arm's length transactions unless determined to be otherwise under professionally accepted mass appraisal techniques. The Department of Revenue shall not overturn a determination made by a county assessor regarding the qualification of a sale unless the department reviews the sale and determines through the review that the determination made by the county assessor is incorrect.

(3) The Property Tax Administrator annually shall make and issue comprehensive assessment ratio studies of the average level of assessment, the degree of assessment uniformity, and the overall compliance with assessment requirements for each major class of real property subject to the property tax in each county. The comprehensive assessment ratio studies shall be developed in compliance with professionally accepted mass appraisal techniques and shall employ such statistical analysis as deemed appropriate by the Property Tax Administrator, including measures of central tendency and dispersion. The comprehensive assessment ratio studies shall be based upon the sales file as developed in subsection (2) of this section and shall be used by the Property Tax Administrator for the analysis of the level of value and quality of assessment for purposes of section 77-5027 and by the Property Tax Administrator in establishing the adjusted valuations required by section 79-1016. Such studies may also be used by assessing officials in establishing assessed valuations.

(4) For purposes of determining the level of value of agricultural and horticultural land subject to special valuation under sections 77-1343 to 77-1347.01, the Property Tax Administrator shall annually make and issue a comprehensive study developed in compliance with professionally accepted

mass appraisal techniques to establish the level of value if in his or her opinion the level of value cannot be developed through the use of the comprehensive assessment ratio studies developed in subsection (3) of this section.

(5) County assessors and other taxing officials shall electronically report data on the assessed valuation and other features of the property assessment process for such periods and in such form and content as the Property Tax Administrator shall deem appropriate. The Property Tax Administrator shall so construct and maintain the system used to collect and analyze the data to enable him or her to make intracounty comparisons of assessed valuation, including school districts and other political subdivisions, as well as intercounty comparisons of assessed valuation, including school districts and other political subdivisions. The Property Tax Administrator shall include analysis of real property sales pursuant to land contracts and similar transfers at the time of execution of the contract or similar transfer.

**Source:** Laws 1969, c. 622, § 3, p. 2513; Laws 1979, LB 187, § 207; Laws 1980, LB 834, § 61; Laws 1992, LB 719A, § 166; Laws 1994, LB 1275, § 11; Laws 1995, LB 452, § 19; Laws 1995, LB 490, § 124; Laws 1999, LB 36, § 29; Laws 1999, LB 194, § 21; Laws 2001, LB 170, § 7; Laws 2002, LB 994, § 14; Laws 2005, LB 40, § 8; Laws 2007, LB334, § 65; Laws 2009, LB166, § 8; Laws 2011, LB210, § 5.

Operative date August 27, 2011.

**77-1330 Property Tax Administrator and Tax Commissioner; guides for assessors; prepare; issue; failure to implement guide; corrective measures; procedures; cost; payment; State Treasurer; duties; removal of county assessor or deputy from office; appeal.**

(1) The Property Tax Administrator and Tax Commissioner shall prepare, issue, and annually revise guides for county assessors in the form of property tax laws, rules, regulations, manuals, and directives. The Property Tax Administrator and Tax Commissioner may issue such directives without the necessity of compliance with the terms of the Administrative Procedure Act relating to the promulgation of rules and regulations. The assessment and appraisal function performed by counties shall comply with the standards, and county assessors shall continually use the materials in the performance of their duties. The standards shall not require the implementation of a specific computer software or hardware system if the existing software or system produces data and reports in compliance with the standards.

(2) The Property Tax Administrator, or his or her agent or representative, may examine or cause to have examined any books, papers, records, or memoranda of any county relating to the assessment of property to determine compliance with the laws, rules, regulations, manuals, and directives described in subsection (1) of this section. Such production of records shall not include the photocopying of records between January 1 and April 1. Failure to provide such records to the Property Tax Administrator may constitute grounds for the suspension of the assessor's certificate of any county assessor who willfully fails to make requested records available to the Property Tax Administrator.

(3) After an examination the Property Tax Administrator shall provide a written report of the results to the county assessor and county board. If the examination indicates a failure to meet the standards contained in the laws,

rules, regulations, manuals, and directives, the Property Tax Administrator shall, in the report, set forth the facts and cause of such failures as well as corrective measures the county or county assessor may implement to correct those failures.

(4) After the issuance of the report of the results of the examination, the Property Tax Administrator may seek to order a county or county assessor to take corrective measures to remedy any failure to comply with the materials described in subsection (1) of this section. Such corrective orders may only be issued after written notice and a hearing before the Tax Commissioner conducted at least ten days after the issuance of the written notice of hearing. The performance of such corrective measures shall be implemented by the county to which the order is issued. If the county fails to implement such corrective measures, the Property Tax Administrator may seek to suspend the assessment function of the county under the terms of subsection (5) of this section and shall implement the corrective measures pursuant to subsection (6) of this section. The performance of such corrective measures shall be a charge on the county, and upon completion, the Property Tax Administrator shall notify the county board of the cost and make demand for such cost. If payment is not received within one hundred twenty days after the start of the next fiscal year, the Tax Commissioner shall report such fact to the State Treasurer. The State Treasurer shall immediately make payment to the Department of Revenue for the costs incurred by the department for such corrective measures. The payment shall be made out of any money to which such county may be entitled under the Compressed Fuel Tax Act, Chapter 77, articles 27 and 35, and sections 66-482 to 66-4,149.

(5) If, within one year from the service of the order, the measures in the corrective order have not been taken, the Tax Commissioner (a) may, at any time during the continuance of such failure, issue an order requiring the county assessor and county board to show cause why the authority of the county with respect to assessments or any matter related thereto should not be suspended, (b) shall set a time and place at which the Tax Commissioner or his or her representative shall hear the county assessor and county board on the question of compliance by the county assessor or county with the laws, rules, regulations, manuals, directives, or corrective orders described in this section, and (c) after such hearing shall determine whether and to what extent the assessment function of the county shall be so suspended. Such hearing shall be held at least ten days after the issuance of such notice in the county.

(6) During the continuance of a suspension pursuant to subsection (5) of this section, the Property Tax Administrator shall succeed to the authority and duties from which the county has been suspended and shall exercise and perform the same. Such exercise and performance shall be a charge on the suspended county. The suspension shall continue until the Tax Commissioner finds that the conditions responsible for the failure to meet the minimum standards contained in the laws, rules, regulations, manuals, and directives have been corrected.

(7) The Property Tax Administrator, subject to rules and regulations to be published and furnished to every county assessor and county board, shall have the power to petition the Tax Commissioner to invalidate the certificate of any assessor or deputy assessor who willfully fails or refuses to diligently perform his or her duties in accordance with the laws, rules, regulations, manuals, and orders issued by the Tax Commissioner governing the assessment of property

and the duties of each assessor and deputy assessor. No certificate shall be revoked or suspended except after notice and a hearing before the Tax Commissioner or his or her designee. Such hearing shall be held at least ten days after the issuance of such notice in the county. Prior to revocation, a one-year probationary period, subject to oversight by the Tax Commissioner, shall be imposed. At the end of the one-year probationary period, a second hearing shall be held. If assessment practices have improved, the probationary period shall end and no revocation shall be made. If assessment practices have not improved, the assessor certificate shall be revoked. If during the probationary period, the assessor continues to willfully fail or refuse to diligently perform his or her duties, the Tax Commissioner may immediately hold the second hearing. If the county assessor certificate of a person serving as assessor or deputy assessor is revoked, such person shall be removed from office by the Tax Commissioner, the office shall be declared vacant, and such person shall not be eligible to hold that office for a period of five years after the date of removal. The Tax Commissioner shall mail a copy of his or her written order to the affected party within seven days after the date of the order.

(8) All hearings described in this section shall be governed by the Administrative Procedure Act. Any county aggrieved by a determination of the Tax Commissioner after a hearing pursuant to subsections (4) and (5) of this section or alleging that its suspension is no longer justified or any assessor or deputy assessor whose county assessor certificate has been revoked may appeal within thirty days after the date of the written order of the Tax Commissioner to the Tax Equalization and Review Commission in accordance with section 77-5013.

**Source:** Laws 1969, c. 622, § 6, p. 2514; Laws 1979, LB 159, § 7; Laws 1981, LB 479, § 1; Laws 1984, LB 833, § 3; Laws 1985, LB 271, § 14; Laws 1995, LB 490, § 126; Laws 1999, LB 36, § 30; Laws 1999, LB 194, § 22; Laws 2004, LB 973, § 24; Laws 2007, LB334, § 66; Laws 2011, LB289, § 38.  
Operative date January 1, 2012.

**Cross References**

**Administrative Procedure Act**, see section 84-920.  
**Compressed Fuel Tax Act**, see section 66-697.

**77-1355 Repealed. Laws 2011, LB 210, § 17.**  
Operative date August 27, 2011.

**ARTICLE 15**  
**EQUALIZATION BY COUNTY BOARD**

Section	
77-1502.	Board; protests; report; notification.
77-1504.	Equalization of property; board; powers and duties; protest; procedure; notice of decision.
77-1504.01.	Adjustment to class or subclass of real property; procedure.
77-1507.	Board; duties; addition of omitted property; clerical errors; protest; procedure.
77-1514.	Abstract of property assessment rolls; prepared by county assessor; file with Property Tax Administrator.

**77-1502 Board; protests; report; notification.**

(1) The county board of equalization shall meet for the purpose of reviewing and deciding written protests filed pursuant to this section beginning on or

after June 1 and ending on or before July 25 of each year. Protests regarding real property shall be signed and filed after the county assessor's completion of the real property assessment roll required by section 77-1315 and on or before June 30. For protests of real property, a protest shall be filed for each parcel. Protests regarding taxable tangible personal property returns filed pursuant to section 77-1229 from January 1 through May 1 shall be signed and filed on or before June 30. The county board in a county with a population of more than one hundred thousand inhabitants based upon the most recent federal decennial census may adopt a resolution to extend the deadline for hearing protests from July 25 to August 10. The resolution must be adopted before July 25 and it will affect the time for hearing protests for that year only. By adopting such resolution, such county waives any right to petition the Tax Equalization and Review Commission for adjustment of a class or subclass of real property under section 77-1504.01 for that year.

(2) Each protest shall be signed and filed with the county clerk of the county where the property is assessed. The protest shall contain or have attached a statement of the reason or reasons why the requested change should be made and a description of the property to which the protest applies. If the property is real property, a description adequate to identify each parcel shall be provided. If the property is tangible personal property, a physical description of the property under protest shall be provided. If the protest does not contain or have attached the statement of the reason or reasons for the protest or the applicable description of the property, the protest shall be dismissed by the county board of equalization.

(3) Beginning January 1, 2014, in counties with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, for a protest regarding real property, each protester shall be afforded the opportunity to meet in person with the county board of equalization or a referee appointed under section 77-1502.01 to provide information relevant to the protested property value.

(4) No hearing of the county board of equalization on a protest filed under this section shall be held before a single commissioner or supervisor.

(5) The county clerk or county assessor shall prepare a separate report on each protest. The report shall include (a) a description adequate to identify the real property or a physical description of the tangible personal property to which the protest applies, (b) any recommendation of the county assessor for action on the protest, (c) if a referee is used, the recommendation of the referee, (d) the date the county board of equalization heard the protest, (e) the decision made by the county board of equalization, (f) the date of the decision, and (g) the date notice of the decision was mailed to the protester. The report shall contain, or have attached to it, a statement, signed by the chairperson of the county board of equalization, describing the basis upon which the board's decision was made. The report shall have attached to it a copy of that portion of the property record file which substantiates calculation of the protested value unless the county assessor certifies to the county board of equalization that a copy is maintained in either electronic or paper form in his or her office. One copy of the report, if prepared by the county clerk, shall be given to the county assessor on or before August 2. The county assessor shall have no authority to make a change in the assessment rolls until there is in his or her possession a report which has been completed in the manner specified in this section. If the county assessor deems a report submitted by the county clerk incomplete, the



county assessor shall return the same to the county clerk for proper preparation.

(6) On or before August 2, or on or before August 18 in a county that has adopted a resolution to extend the deadline for hearing protests, the county clerk shall mail to the protester written notice of the board's decision. The notice shall contain a statement advising the protester that a report of the board's decision is available at the county clerk's or county assessor's office, whichever is appropriate.

**Source:** Laws 1903, c. 73, § 121, p. 428; Laws 1905, c. 112, § 1, p. 515; Laws 1909, c. 112, § 1, p. 444; Laws 1911, c. 104, § 14, p. 379; R.S.1913, § 6437; C.S.1922, § 5972; C.S.1929, § 77-1702; R.S. 1943, § 77-1502; Laws 1947, c. 251, § 36, p. 826; Laws 1949, c. 233, § 1, p. 644; Laws 1953, c. 274, § 1, p. 899; Laws 1959, c. 355, § 25, p. 1267; Laws 1959, c. 371, § 1, p. 1307; Laws 1961, c. 377, § 6, p. 1158; Laws 1961, c. 384, § 1, p. 1177; Laws 1972, LB 1342, § 1; Laws 1975, LB 312, § 1; Laws 1984, LB 660, § 2; Laws 1986, LB 174, § 1; Laws 1986, LB 817, § 13; Laws 1987, LB 508, § 44; Laws 1992, LB 1063, § 124; Laws 1992, Second Spec. Sess., LB 1, § 97; Laws 1994, LB 902, § 21; Laws 1995, LB 452, § 23; Laws 1995, LB 490, § 147; Laws 1997, LB 270, § 86; Laws 2003, LB 292, § 12; Laws 2004, LB 973, § 33; Laws 2005, LB 283, § 2; Laws 2005, LB 299, § 1; Laws 2006, LB 808, § 37; Laws 2008, LB965, § 15; Laws 2009, LB166, § 15; Laws 2010, LB877, § 4; Laws 2011, LB384, § 14.  
Operative date August 27, 2011.

**77-1504 Equalization of property; board; powers and duties; protest; procedure; notice of decision.**

The county board of equalization may meet on or after June 1 and on or before July 25, or on or before August 10 if the board has adopted a resolution to extend the deadline for hearing protests under section 77-1502, to consider and correct the current year's assessment of any real property which has been undervalued or overvalued. The board shall give notice of the assessed value to the record owner or agent at his or her last-known address.

The county board of equalization in taking action pursuant to this section may only consider the report of the county assessor pursuant to section 77-1315.01.

Action of the county board of equalization pursuant to this section shall be for the current assessment year only.

The action of the county board of equalization may be protested to the board within thirty days after the mailing of the notice required by this section. If no protest is filed, the action of the board shall be final. If a protest is filed, the county board of equalization shall hear the protest in the manner prescribed in section 77-1502, except that all protests shall be heard and decided on or before September 15 or on or before September 30 if the county has adopted a resolution to extend the deadline for hearing protests under section 77-1502. Within seven days after the county board of equalization's final decision, the county clerk shall mail to the protester written notice of the decision. The notice shall contain a statement advising the protester that a report of the

decision is available at the county clerk's or county assessor's office, whichever is appropriate.

The action of the county board of equalization upon a protest filed pursuant to this section may be appealed to the Tax Equalization and Review Commission on or before October 15 or on or before October 30 if the county has adopted a resolution to extend the deadline for hearing protests under section 77-1502.

**Source:** Laws 1903, c. 73, § 121, p. 428; Laws 1905, c. 112, § 1, p. 515; Laws 1909, c. 112, § 1, p. 444; Laws 1911, c. 104, § 14, p. 379; R.S.1913, § 6437; C.S.1922, § 5972; C.S.1929, § 77-1702; R.S. 1943, § 77-1504; Laws 1947, c. 251, § 37, p. 826; Laws 1979, LB 187, § 210; Laws 1984, LB 835, § 11; Laws 1987, LB 508, § 46; Laws 1988, LB 1207, § 8; Laws 1989, LB 361, § 21; Laws 1991, LB 320, § 11; Laws 1992, LB 1063, § 126; Laws 1992, Second Spec. Sess., LB 1, § 99; Laws 1994, LB 902, § 22; Laws 1995, LB 452, § 25; Laws 1995, LB 490, § 149; Laws 1997, LB 270, § 88; Laws 1998, LB 1104, § 10; Laws 1999, LB 194, § 25; Laws 2005, LB 263, § 13; Laws 2005, LB 283, § 3; Laws 2006, LB 808, § 38; Laws 2007, LB167, § 2; Laws 2011, LB384, § 15.  
Operative date August 27, 2011.

**77-1504.01 Adjustment to class or subclass of real property; procedure.**

(1) Unless the county has adopted a resolution to extend the deadline for hearing protests under section 77-1502, after completion of its actions and based upon the hearings conducted pursuant to sections 77-1502 and 77-1504, a county board of equalization may petition the Tax Equalization and Review Commission to consider an adjustment to a class or subclass of real property within the county. Petitions must be filed with the commission on or before July 26.

(2) The commission shall hear and take action on a petition filed by a county board of equalization on or before August 10. Hearings held pursuant to this section may be held by means of videoconference or telephone conference. The burden of proof is on the petitioning county to show that failure to make an adjustment would result in values that are not equitable and in accordance with the law. At the hearing the commission may receive testimony from any interested person.

(3) After a hearing the commission shall, within the powers granted in section 77-5023, enter its order based on evidence presented to it at such hearing and the hearings held pursuant to section 77-5022 for that year. The order shall specify the percentage increase or decrease and the class or subclass of real property affected or any corrections or adjustments to be made to the class or subclass of real property affected. When issuing an order to adjust a class or subclass of real property, the commission may exclude individual properties from that order whose value has already been adjusted by a county board of equalization in the same manner as the commission directs in its order. On or before August 10 of each year, the commission shall send its order by certified mail to the county assessor and by regular mail to the county clerk and chairperson of the county board.

(4) The county assessor shall make the specified changes to each item of property in the county as directed by the order of the commission. In imple-

menting such order, the county assessor shall adjust the values of the class or subclass that is the subject of the order. For properties that have already received an adjustment from the county board of equalization, an additional adjustment may be made so that total adjustments made are equal to the commission's ordered adjustment and no additional adjustment shall be made applying the commission's order, but such an exclusion from the commission's order shall not preclude adjustments to those properties for corrections or omissions. The county assessor of the county adjusted by an order of the commission shall recertify the abstract of assessment to the Property Tax Administrator on or before August 20.

**Source:** Laws 1995, LB 452, § 26; Laws 1997, LB 397, § 22; Laws 1998, LB 306, § 22; Laws 1999, LB 140, § 1; Laws 1999, LB 194, § 26; Laws 2000, LB 968, § 58; Laws 2003, LB 291, § 2; Laws 2004, LB 973, § 34; Laws 2005, LB 283, § 4; Laws 2008, LB965, § 16; Laws 2011, LB384, § 16.  
Operative date May 12, 2011.

**77-1507 Board; duties; addition of omitted property; clerical errors; protest; procedure.**

(1) The county board of equalization may meet at any time for the purpose of assessing any omitted real property that was not reported to the county assessor pursuant to section 77-1318.01 and for correction of clerical errors as defined in section 77-128 that result in a change of assessed value. The county board of equalization shall give notice of the assessed value of the real property to the record owner or agent at his or her last-known address. For real property which has been omitted in the current year, the county board of equalization shall not send notice pursuant to this section on or before June 1.

Protests of the assessed value proposed for omitted real property pursuant to this section or a correction for clerical errors shall be filed with the county board of equalization within thirty days after the mailing of the notice. All provisions of section 77-1502 except dates for filing a protest, the period for hearing protests, and the date for mailing notice of the county board of equalization's decision are applicable to any protest filed pursuant to this section. The county board of equalization shall issue its decision on the protest within thirty days after the filing of the protest.

(2) The county clerk shall, within seven days after the board's final decision, send:

(a) For protested action, a notification to the protester of the board's final action advising the protester that a report of the board's final decision is available at the county clerk's or county assessor's office, whichever is appropriate; and

(b) For protested and nonprotested action, a report to the Property Tax Administrator which shall state a description adequate to identify the property, the reason such property was not assessed pursuant to section 77-1301, and a statement of the board's justification for its action. A copy of the report shall be available for public inspection in the office of the county clerk.

(3) The action of the county board of equalization upon a protest filed pursuant to this section may be appealed to the Tax Equalization and Review Commission within thirty days after the board's final decision.

(4) Improvements to real property which were properly reported to the county assessor pursuant to section 77-1318.01 for the current year and were not added to the assessment roll by the county assessor on or before March 19 shall only be added to the assessment roll by the county board of equalization from June 1 through July 25, except beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, such improvements which were not added to the assessment roll on or before March 25 shall only be added to the assessment roll by the county board of equalization from June 1 through July 25. In counties that have adopted a resolution to extend the deadline for hearing protests under section 77-1502, the deadline of July 25 shall be extended to August 10.

**Source:** Laws 1903, c. 73, § 121, p. 428; Laws 1905, c. 112, § 1, p. 515; Laws 1909, c. 112, § 1, p. 444; Laws 1911, c. 104, § 14, p. 379; R.S.1913, § 6437; C.S.1922, § 5972; C.S.1929, § 77-1702; R.S. 1943, § 77-1507; Laws 1987, LB 508, § 48; Laws 1995, LB 490, § 150; Laws 1997, LB 270, § 89; Laws 1999, LB 194, § 27; Laws 2005, LB 263, § 14; Laws 2005, LB 283, § 5; Laws 2006, LB 808, § 39; Laws 2010, LB877, § 5; Laws 2011, LB384, § 17.  
Operative date August 27, 2011.

**77-1514 Abstract of property assessment rolls; prepared by county assessor; file with Property Tax Administrator.**

The county assessor shall prepare an abstract of the property assessment rolls of locally assessed real property of his or her county on forms prescribed and furnished by the Tax Commissioner. The county assessor shall file the abstract with the Property Tax Administrator on or before March 19, except beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the real property abstract shall be filed on or before March 25. The abstract shall show the taxable value of real property in the county as determined by the county assessor and any other information as required by the Property Tax Administrator. The Property Tax Administrator, upon written request from the county assessor, may for good cause shown extend the final filing due date for the abstract and the statutory deadlines provided in section 77-5027. The Property Tax Administrator may extend the statutory deadline in section 77-5028 for a county if the deadline is extended for that county. Beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the county assessor shall request an extension of the final filing due date by March 22.

**Source:** Laws 1903, c. 73, § 125, p. 431; R.S.1913, § 6442; C.S.1922, § 5977; C.S.1929, § 77-1707; R.S.1943, § 77-1514; Laws 1945, c. 190, § 1, p. 590; Laws 1947, c. 251, § 39, p. 827; Laws 1959, c. 371, § 4, p. 1309; Laws 1987, LB 508, § 49; Laws 1992, LB 1063, § 129; Laws 1992, Second Spec. Sess., LB 1, § 102; Laws 1994, LB 902, § 24; Laws 1995, LB 452, § 28; Laws 1995, LB 490, § 155; Laws 1997, LB 270, § 91; Laws 1999, LB 194, § 28; Laws 2000, LB 968, § 59; Laws 2004, LB 973, § 37; Laws 2005, LB 15, § 6; Laws 2005, LB 261, § 7; Laws 2007, LB334, § 79; Laws 2011, LB162, § 1; Laws 2011, LB384, § 18.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB162, section 1, with LB384, section 18, to reflect all amendments.

**Note:** Changes made by LB162 became effective August 27, 2011. Changes made by LB384 became operative August 27, 2011.

**ARTICLE 17**  
**COLLECTION OF TAXES**

Section

77-1783.01. Corporate taxes; corporate officer or employee; personal liability; collection procedure; limitation.

**77-1783.01 Corporate taxes; corporate officer or employee; personal liability; collection procedure; limitation.**

(1) Any officer or employee with the duty to collect, account for, or pay over any taxes imposed upon a corporation or with the authority to decide whether the corporation will pay taxes imposed upon a corporation shall be personally liable for the payment of such taxes in the event of willful failure on his or her part to have a corporation perform such act. Such taxes shall be collected in the same manner as provided under the Uniform State Tax Lien Registration and Enforcement Act.

(2) Within sixty days after the day on which the notice and demand are made for the payment of such taxes, any officer or employee seeking to challenge the Tax Commissioner's determination as to his or her personal liability for the corporation's unpaid taxes may petition for a redetermination. The petition may include a request for the redetermination of the personal liability of the corporate officer or employee, the redetermination of the amount of the corporation's unpaid taxes, or both. If a petition for redetermination is not filed within the sixty-day period, the determination becomes final at the expiration of the period.

(3) If the requirements prescribed in subsection (2) of this section are satisfied, the Tax Commissioner shall abate collection proceedings and shall grant the officer or employee an oral hearing and give him or her ten days' notice of the time and place of such hearing. The Tax Commissioner may continue the hearing from time to time as necessary.

(4) Any notice required under this section shall be served personally or by mail in the manner provided in section 77-27,135.

(5) If the Tax Commissioner determines that further delay in the collection of such taxes from the officer or employee will jeopardize future collection proceedings, nothing in this section shall prevent the immediate collection of such taxes.

(6) No notice or demand for payment may be issued against any officer or employee with the duty to collect, account for, or pay over any taxes imposed upon a corporation or with the authority to decide whether the corporation will pay taxes imposed upon a corporation more than three years after the final determination of the corporation's liability or more than one year after the closure or dismissal of a bankruptcy case in which the corporation appeared as the debtor or debtor in possession if the three-year period to issue a notice or demand for payment had not expired prior to the filing of the petition in bankruptcy, whichever date is later.

(7) For purposes of this section:

(a) Corporation shall mean any corporation and any other entity that is taxed as a corporation under the Internal Revenue Code;

(b) Taxes shall mean all taxes and additions to taxes including interest and penalties imposed under the revenue laws of this state which are administered by the Tax Commissioner; and

(c) Willful failure shall mean that failure which was the result of an intentional, conscious, and voluntary action.

**Source:** Laws 1996, LB 1041, § 5; Laws 2008, LB914, § 6; Laws 2009, LB165, § 2; Laws 2011, LB210, § 6.  
Operative date August 27, 2011.

**Cross References**

Uniform State Tax Lien Registration and Enforcement Act, see section 77-3901.

**ARTICLE 19**

**COLLECTION OF DELINQUENT REAL ESTATE  
TAXES THROUGH COURT PROCEEDINGS**

**Section**

- 77-1901. Tax liens; delinquency; order of county board directing foreclosure.  
77-1902. Tax sale certificate; tax deed; right of holder to foreclosure; action in district court; limitation period.  
77-1909. Foreclosure proceedings; decree; contents; attorney's fee.  
77-1914. Foreclosure proceedings; confirmation of sale; release of real property.  
77-1915. Foreclosure proceedings; proceeds of sale; disposition.  
77-1916. Foreclosure proceedings; surplus proceeds; disposition; prorating.

**77-1901 Tax liens; delinquency; order of county board directing foreclosure.**

Counties shall have a lien upon real estate within their boundaries for all taxes due thereon to the state, any governmental subdivision of the state, any municipal corporation, and any drainage or irrigation district. After any parcel of real estate has been offered for sale and not sold for want of bidders, the county board shall make and enter an order directing the county attorney to foreclose the lien for all taxes then delinquent, excluding any lien on real estate for special assessments levied by any sanitary and improvement district which special assessments have not been previously offered for sale by the county treasurer, in the same manner and with like effect as in the foreclosure of real estate mortgages, except as otherwise specifically provided by sections 77-1903 to 77-1917.

**Source:** Laws 1943, c. 176, § 1, p. 614; R.S.1943, § 77-1901; Laws 1965, c. 496, § 1, p. 1584; Laws 1979, LB 84, § 4; Laws 1996, LB 1321, § 3; Laws 2011, LB423, § 1.  
Effective date August 27, 2011.

**77-1902 Tax sale certificate; tax deed; right of holder to foreclosure; action in district court; limitation period.**

When land has been sold for delinquent taxes and a tax sale certificate or tax deed has been issued, the holder of such tax sale certificate or tax deed may, instead of demanding a deed or, if a deed has been issued, by surrendering the same in court, proceed in the district court of the county in which the land is situated to foreclose the lien for taxes represented by the tax sale certificate or

tax deed and all subsequent tax liens thereon, excluding any lien on real estate for special assessments levied by any sanitary and improvement district which special assessments have not been previously offered for sale by the county treasurer, in the same manner and with like effect as in the foreclosure of a real estate mortgage, except as otherwise specifically provided by sections 77-1903 to 77-1917. Such action shall only be brought within six months after the expiration of three years from the date of sale of any real estate for taxes or special assessments.

**Source:** Laws 1943, c. 176, § 2, p. 615; R.S.1943, § 77-1902; Laws 1975, LB 78, § 2; Laws 1987, LB 215, § 3; Laws 1996, LB 1321, § 4; Laws 2011, LB423, § 2.  
Effective date August 27, 2011.

**77-1909 Foreclosure proceedings; decree; contents; attorney's fee.**

In its decree, the court shall ascertain and determine the amount of taxes, special assessments, and other liens, interest, and costs chargeable to each particular item of real property, excluding any lien on real estate for special assessments levied by any sanitary and improvement district which special assessments have not been previously offered for sale by the county treasurer, and award to the plaintiff an attorney's fee, unless waived by the plaintiff, in an amount equal to ten percent of the amount due which shall be taxed as part of the costs in the action and apportioned equitably as other costs.

**Source:** Laws 1943, c. 176, § 9, p. 616; R.S.1943, § 77-1909; Laws 1992, LB 1063, § 171; Laws 1992, Second Spec. Sess., LB 1, § 144; Laws 2011, LB423, § 3.  
Effective date August 27, 2011.

**77-1914 Foreclosure proceedings; confirmation of sale; release of real property.**

Upon confirmation of the sale, the clerk of the district court shall certify to the county treasurer the year or years of the taxes for which the real property was sold. The county treasurer shall thereupon cancel the taxes for such years, and the proceedings shall operate as a release of such real property from all liens for the taxes included on the real property. The delivery of the sheriff's deed shall pass title to the purchaser free and clear of all liens and interests of all persons who were parties to the proceedings, who received service of process, and over whom the court had jurisdiction, excluding any lien on real estate for special assessments levied by any sanitary and improvement district which special assessments have not been previously offered for sale by the county treasurer.

**Source:** Laws 1943, c. 176, § 14, p. 618; R.S.1943, § 77-1914; Laws 1992, LB 1063, § 175; Laws 1992, Second Spec. Sess., LB 1, § 148; Laws 2008, LB893, § 2; Laws 2011, LB423, § 4.  
Effective date August 27, 2011.

**77-1915 Foreclosure proceedings; proceeds of sale; disposition.**

From the proceeds of the sale of any real property, the costs charged thereto shall first be paid. When the plaintiff is a private person, firm, or corporation, the balance thereof, or so much thereof as is necessary, shall be paid to the plaintiff. When the plaintiff is a governmental subdivision, municipal corpora-

tion, or drainage or irrigation district, the balance thereof, or so much thereof as is necessary, shall be paid to the county treasurer for distribution to the various governmental subdivisions, municipal corporations, or drainage or irrigation districts entitled thereto in discharge of all claims, excluding any lien on real estate for special assessments levied by any sanitary and improvement district which special assessments have not been previously offered for sale by the county treasurer.

**Source:** Laws 1943, c. 176, § 15, p. 618; R.S.1943, § 77-1915; Laws 1992, LB 1063, § 176; Laws 1992, Second Spec. Sess., LB 1, § 149; Laws 2011, LB423, § 5.  
Effective date August 27, 2011.

**77-1916 Foreclosure proceedings; surplus proceeds; disposition; prorating.**

If a surplus remains after satisfying all costs and taxes against any particular item of real property, the excess shall be applied in the manner provided by law for the disposition of the surplus in the foreclosure of mortgages on real property. If the proceeds are insufficient to pay the costs and all the taxes, when the plaintiff is a governmental subdivision, a municipal corporation, or a drainage or irrigation district, the amount remaining shall be prorated among the governmental subdivisions, municipal corporations, and drainage or irrigation districts in the proportion of their interest in the decree of foreclosure. The proceeds of the sale of one item of real property shall not be applied to the discharge of a lien for taxes against another item of real property except when so directed by the decree for foreclosure under the circumstances set forth in section 77-1910. The lien on real estate for special assessments levied by any sanitary and improvement district shall not be entitled to any surplus unless such special assessments have been previously offered for sale by the county treasurer.

**Source:** Laws 1943, c. 176, § 16, p. 618; R.S.1943, § 77-1916; Laws 1992, LB 1063, § 177; Laws 1992, Second Spec. Sess., LB 1, § 150; Laws 2011, LB423, § 6.  
Effective date August 27, 2011.

**ARTICLE 23**

**DEPOSIT AND INVESTMENT OF PUBLIC FUNDS**

(a) GENERAL PROVISIONS

Section

77-2318. County funds; depositories; limitation on deposits; exception.

(b) PUBLIC FUNDS DEPOSIT SECURITY ACT

77-2387. Terms, defined.

77-2398. Deposits in excess of insured or guaranteed amount; requirements.

(a) GENERAL PROVISIONS

**77-2318 County funds; depositories; limitation on deposits; exception.**

The county treasurer shall not have on deposit in any bank, capital stock financial institution, or qualifying mutual financial institution at any time more money than the amount insured or guaranteed by the Federal Deposit Insurance Corporation, plus the maximum amount of the bond given by such bank, capital stock financial institution, or qualifying mutual financial institution in



cases when the bank, capital stock financial institution, or qualifying mutual financial institution gives a guaranty bond except as provided in section 77-2318.01. The amount on deposit at any time with any bank, capital stock financial institution, or qualifying mutual financial institution shall not exceed fifty percent of the capital and surplus of such bank, capital stock financial institution, or qualifying mutual financial institution except as provided in section 77-2318.01. When the amount of money which the county treasurer desires to deposit in the banks, capital stock financial institutions, and qualifying mutual financial institutions within the county exceeds fifty percent of the capital and surplus of all of the banks, capital stock financial institutions, and qualifying mutual financial institutions in such county, then the county treasurer may, with the consent of the county board, deposit an amount in excess thereof, but not exceeding the capital stock and surplus in any one bank, capital stock financial institution, or qualifying mutual financial institution unless the depository gives security as provided in section 77-2318.01. Bond shall be required of all banks, capital stock financial institutions, and qualifying mutual financial institutions for such excess deposit unless security is given in accordance with section 77-2318.01. The bonds shall be deposited with the county treasurer and approved by the county board. Section 77-2366 shall apply to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

**Source:** Laws 1891, c. 50, § 8, p. 352; Laws 1897, c. 23, § 5, p. 191; Laws 1903, c. 110, § 2, p. 585; Laws 1909, c. 35, § 1, p. 216; R.S.1913, § 6662; C.S.1922, § 6193; Laws 1925, c. 96, § 1, p. 279; Laws 1927, c. 34, § 2, p. 156; Laws 1929, c. 36, § 1, p. 151; C.S.1929, § 77-2508; Laws 1935, c. 152, § 4, p. 563; Laws 1939, c. 103, § 3, p. 464; C.S.Supp.,1941, § 77-2508; R.S.1943, § 77-2318; Laws 1953, c. 284, § 1, p. 921; Laws 1989, LB 33, § 36; Laws 1992, LB 757, § 26; Laws 1996, LB 1274, § 30; Laws 2001, LB 362, § 38; Laws 2009, LB259, § 15; Laws 2011, LB396, § 1.  
Effective date August 27, 2011.

#### (b) PUBLIC FUNDS DEPOSIT SECURITY ACT

##### **77-2387 Terms, defined.**

For purposes of the Public Funds Deposit Security Act, unless the context otherwise requires:

- (1) Affiliate means any entity that controls, is controlled by, or is under common control with another entity;
- (2) Bank means any state-chartered or federally chartered bank which has a main chartered office in this state, any branch thereof in this state, or any branch in this state of a state-chartered or federally chartered bank which maintained a main chartered office in this state prior to becoming a branch of such state-chartered or federally chartered bank;
- (3) Capital stock financial institution means a capital stock state building and loan association, a capital stock federal savings and loan association, a capital stock federal savings bank, and a capital stock state savings bank, which has a main chartered office in this state, any branch thereof in this state, or any branch in this state of a capital stock financial institution which maintained a

main chartered office in this state prior to becoming a branch of such capital stock financial institution;

(4) Control means to own directly or indirectly or to control in any manner twenty-five percent of the voting shares of any bank, capital stock financial institution, or holding company or to control in any manner the election of the majority of directors of any bank, capital stock financial institution, or holding company;

(5) Custodial official means an officer or an employee of the State of Nebraska or any political subdivision who, by law, is made custodian of or has control over public money or public funds subject to the act or the security for the deposit of public money or public funds subject to the act;

(6) Deposit guaranty bond means a bond underwritten by an insurance company authorized to do business in this state which provides coverage for deposits of a governing authority which are in excess of the amounts insured or guaranteed by the Federal Deposit Insurance Corporation;

(7) Event of default means the issuance of an order by a supervisory authority or a receiver which restrains a bank, capital stock financial institution, or qualifying mutual financial institution from paying its deposit liabilities;

(8) Governing authority means the official, or the governing board, council, or other body or group of officials, authorized to designate a bank, capital stock financial institution, or qualifying mutual financial institution as a depository of public money or public funds subject to the act;

(9) Governmental unit means the State of Nebraska or any political subdivision thereof;

(10) Political subdivision means any county, city, village, township, district, authority, or other public corporation or entity, whether organized and existing under direct provisions of the Constitution of Nebraska or laws of the State of Nebraska or by virtue of a charter, corporate articles, or other legal instruments executed under authority of the constitution or laws, including any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act;

(11) Qualifying mutual financial institution shall have the same meaning as in section 77-2365.01;

(12) Repurchase agreement means an agreement to purchase securities by the governing authority by which the counterparty bank, capital stock financial institution, or qualifying mutual financial institution will repurchase the securities on or before a specified date and for a specified amount and the counterparty bank, capital stock financial institution, or qualifying mutual financial institution will deliver the underlying securities to the governing authority by book entry, physical delivery, or third-party custodial agreement. The transfer of underlying securities to the counterparty bank's, capital stock financial institution's, or qualifying mutual financial institution's customer book entry account may be used for book entry delivery if the governing authority so chooses; and

(13) Securities means:

(a) Bonds or obligations fully and unconditionally guaranteed both as to principal and interest by the United States Government;

(b) United States Government notes, certificates of indebtedness, or treasury bills of any issue;

- (c) United States Government bonds;
- (d) United States Government guaranteed bonds or notes;
- (e) Bonds or notes of United States Government agencies;
- (f) Bonds of any state or political subdivision which are fully defeased as to principal and interest by any combination of bonds or notes authorized in subdivision (c), (d), or (e) of this subdivision;
- (g) Bonds or obligations, including mortgage-backed obligations, issued by the Federal Home Loan Mortgage Corporation, the Federal Farm Credit System, a Federal Home Loan Bank, or the Federal National Mortgage Association;
- (h) Repurchase agreements the subject securities of which are any of the securities described in subdivisions (a) through (g) of this subdivision;
- (i) Securities issued under the authority of the Federal Farm Loan Act;
- (j) Loan participations which carry the guarantee of the Commodity Credit Corporation, an instrumentality of the United States Department of Agriculture;
- (k) Guaranty agreements of the Small Business Administration of the United States Government;
- (l) Bonds or obligations of any county, city, village, metropolitan utilities district, public power and irrigation district, sewer district, fire protection district, rural water district, or school district in this state which have been issued as required by law;
- (m) Bonds of the State of Nebraska or of any other state which are purchased by the Board of Educational Lands and Funds of this state for investment in the permanent school fund or which are purchased by the state investment officer of this state for investment in the permanent school fund;
- (n) Bonds or obligations of another state, or a political subdivision of another state, which are rated within the two highest classifications of prime by at least one of the standard rating services;
- (o) Warrants of the State of Nebraska;
- (p) Warrants of any county, city, village, local hospital district, or school district in this state;
- (q) Irrevocable, nontransferable, unconditional standby letters of credit issued by the Federal Home Loan Bank of Topeka; and
- (r) Certificates of deposit fully insured or guaranteed by the Federal Deposit Insurance Corporation that are issued to a bank, capital stock financial institution, or qualifying mutual financial institution furnishing securities pursuant to the Public Funds Deposit Security Act.

**Source:** Laws 1996, LB 1274, § 2; Laws 1997, LB 275, § 2; Laws 2000, LB 932, § 39; Laws 2001, LB 362, § 82; Laws 2001, LB 420, § 35; Laws 2003, LB 131, § 37; Laws 2003, LB 175, § 14; Laws 2004, LB 999, § 50; Laws 2009, LB259, § 27; Laws 2011, LB78, § 1.

Effective date March 11, 2011.

**Cross References**

**Interlocal Cooperation Act**, see section 13-801.  
**Joint Public Agency Act**, see section 13-2501.

**77-2398 Deposits in excess of insured or guaranteed amount; requirements.**

(1) As an alternative to the requirements to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation pursuant to sections 77-2389 and 77-2394, a bank, capital stock financial institution, or qualifying mutual financial institution designated as a public depository may secure the deposits of one or more governmental units by providing a deposit guaranty bond or by depositing, pledging, or granting a security interest in a single pool of securities to secure the repayment of all public money or public funds deposited in the bank, capital stock financial institution, or qualifying mutual financial institution by such governmental units and not otherwise secured pursuant to law, if at all times the total value of the deposit guaranty bond is at least equal to the amount on deposit which is in excess of the amount so insured or guaranteed or the aggregate market value of the pool of securities so deposited, pledged, or in which a security interest is granted is at least equal to one hundred five percent of the amount on deposit which is in excess of the amount so insured or guaranteed. Each such bank, capital stock financial institution, or qualifying mutual financial institution shall carry on its accounting records at all times a general ledger or other appropriate account of the total amount of all public money or public funds to be secured by a deposit guaranty bond or by the pool of securities, as determined at the opening of business each day, and the total value of the deposit guaranty bond or the aggregate market value of the pool of securities deposited, pledged, or in which a security interest is granted to secure such public money or public funds.

(2) Only the securities listed in subdivision (13) of section 77-2387 may be provided and accepted as security for the deposit of public money or public funds and shall be eligible as collateral. The qualified trustee shall accept no security which is not listed in subdivision (13) of section 77-2387.

**Source:** Laws 2000, LB 932, § 43; Laws 2001, LB 362, § 92; Laws 2009, LB259, § 31; Laws 2011, LB78, § 2.  
Effective date March 11, 2011.

**ARTICLE 26**  
**CIGARETTE TAX**

## Section

- 77-2601. Terms, defined.  
 77-2602. Cigarette tax; rate; disposition of proceeds; priority.  
 77-2602.03. Increase in tax; applicability; stamping agents; duties; credit to wholesaler.  
 77-2602.05. Cigarette tax; exempt transaction; refund; application; documentation; interest; tax refund formula authorized.  
 77-2602.06. Governor; agreement with federally recognized Indian tribe authorized; contents; tribal taxes; additional agreement, compact, or treaty authorized.  
 77-2603. Tax; stamps; tax meter impressions; requirements; stamping agent; license; application; form; service of process; corporate surety bond; Tax Commissioner; duties; directory license; application; term.  
 77-2603.01. Tribal stamp; authorized.  
 77-2604. Tax Commissioner; forms; reports; contents; when due; sharing of information.  
 77-2604.01. Cigarette sales; reports required; form; contents; sharing of information.  
 77-2605. Cigarette purchase or sale records; inspection.  
 77-2607. Stamping agent; stock; exempt from tax; conditions.  
 77-2608. Tax Commissioner; duties; audit; discount; funds; disposition.

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77-2610.	Stamps; redemption by Tax Commissioner; errors; adjust.
77-2612.	Tax Commissioner; personnel; rules and regulations; stamping agent; license; fee.
77-2613.	State Treasurer; disbursements for administration.
77-2614.	License; permit; stamp; alter; forge; counterfeit; violations; penalty.
77-2615.	Prohibited acts; violations; penalty; prima facie evidence.
77-2615.01.	Licensees; disciplinary action; procedure; appeal; joint and several liability; when.
77-2620.	Contraband cigarettes; confiscation; destruction.
77-2622.	Common carrier; unstamped cigarettes; bond; permit; violation; penalty.

### 77-2601 Terms, defined.

For purposes of sections 77-2601 to 77-2615:

(1) Person means and includes every individual, firm, association, joint-stock company, partnership, limited liability company, syndicate, corporation, trustee, or other legal entity, including any Indian tribe or instrumentality thereof;

(2) Wholesale dealer means a person who sells cigarettes to licensed retail dealers other than branch stores operated by or connected with such wholesale dealer for purposes of resale and is licensed under section 28-1423;

(3) Retail dealer includes every person other than a wholesale dealer engaged in the business of selling cigarettes in this state irrespective of quantity, amount, or number of sales thereof;

(4) Tax Commissioner means the Tax Commissioner of the State of Nebraska;

(5) Cigarette means any roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other material excepting tobacco;

(6) Consumer means any person, firm, association, partnership, limited liability company, joint-stock company, syndicate, or corporation not having a license to sell cigarettes;

(7) Sales entity affiliate means an entity that (a) sells cigarettes that it acquires directly from a manufacturer or importer and (b) is affiliated with that manufacturer or importer. Entities are affiliated with each other if one directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the other. Unless provided otherwise, manufacturer or importer includes any sales entity affiliate of that manufacturer or importer;

(8) Stamping agent has the same meaning as in section 69-2705; and

(9) Indian country means (a) all land in this state within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of this state, and (c) all Indian allotments in this state, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

**Source:** Laws 1947, c. 267, § 1, p. 861; Laws 1978, LB 748, § 41; Laws 1993, LB 121, § 499; Laws 2002, LB 989, § 9; Laws 2003, LB 572, § 9; Laws 2011, LB590, § 19.

Operative date January 1, 2013.

### 77-2602 Cigarette tax; rate; disposition of proceeds; priority.

(1) Every stamping agent engaged in distributing or selling cigarettes at wholesale in this state shall pay to the Tax Commissioner of this state a special privilege tax. This shall be in addition to all other taxes. It shall be paid prior to or at the time of the sale, gift, or delivery to the retail dealer in the several amounts as follows: On each package of cigarettes containing not more than twenty cigarettes, sixty-four cents per package; and on packages containing more than twenty cigarettes, the same tax as provided on packages containing not more than twenty cigarettes for the first twenty cigarettes in each package and a tax of one-twentieth of the tax on the first twenty cigarettes on each cigarette in excess of twenty cigarettes in each package.

(2) Beginning October 1, 2004, the State Treasurer shall place the equivalent of forty-nine cents of such tax in the General Fund. The State Treasurer shall reduce the amount placed in the General Fund under this subsection by the amount prescribed in subdivision (3)(d) of this section. For purposes of this section, the equivalent of a specified number of cents of the tax shall mean that portion of the proceeds of the tax equal to the specified number divided by the tax rate per package of cigarettes containing not more than twenty cigarettes.

(3) The State Treasurer shall distribute the remaining proceeds of such tax in the following order:

(a) First, beginning July 1, 1980, the State Treasurer shall place the equivalent of one cent of such tax in the Nebraska Outdoor Recreation Development Cash Fund. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(b) Second, beginning July 1, 1993, the State Treasurer shall place the equivalent of three cents of such tax in the Health and Human Services Cash Fund to carry out sections 81-637 to 81-640. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(c) Third, beginning October 1, 2002, and continuing until all the purposes of the Deferred Building Renewal Act have been fulfilled, the State Treasurer shall place the equivalent of seven cents of such tax in the Building Renewal Allocation Fund. The distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(d) Fourth, until July 1, 2009, the State Treasurer shall place in the Municipal Infrastructure Redevelopment Fund the sum of five hundred twenty thousand dollars each fiscal year to carry out the Municipal Infrastructure Redevelopment Fund Act. The Legislature shall appropriate the sum of five hundred twenty thousand dollars each year for fiscal year 2003-04 through fiscal year 2008-09;

(e) Fifth, beginning July 1, 2001, and continuing until June 30, 2008, the State Treasurer shall place the equivalent of two cents of such tax in the Information Technology Infrastructure Fund. The distribution under this subdivision shall not be less than two million fifty thousand dollars. Any money

needed to increase the amount distributed under this subdivision to two million fifty thousand dollars shall reduce the distribution to the General Fund;

(f) Sixth, beginning July 1, 2001, and continuing until June 30, 2016, the State Treasurer shall place one million dollars each fiscal year in the City of the Primary Class Development Fund. If necessary, the State Treasurer shall reduce the distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section by such amount required to fulfill the one million dollars to be distributed pursuant to this subdivision;

(g) Seventh, beginning July 1, 2001, and continuing until June 30, 2016, the State Treasurer shall place one million five hundred thousand dollars each fiscal year in the City of the Metropolitan Class Development Fund. If necessary, the State Treasurer shall reduce the distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section by such amount required to fulfill the one million five hundred thousand dollars to be distributed pursuant to this subdivision; and

(h) Eighth, beginning July 1, 2008, and continuing until June 30, 2009, the State Treasurer shall place the equivalent of two million fifty thousand dollars of such tax in the Nebraska Public Safety Communication System Cash Fund. Beginning July 1, 2009, and continuing until June 30, 2016, the State Treasurer shall place the equivalent of two million five hundred seventy thousand dollars of such tax in the Nebraska Public Safety Communication System Cash Fund. Beginning July 1, 2016, and every fiscal year thereafter, the State Treasurer shall place the equivalent of five million seventy thousand dollars of such tax in the Nebraska Public Safety Communication System Cash Fund. If necessary, the State Treasurer shall reduce the distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section by such amount required to fulfill the distribution pursuant to this subdivision.

(4) If, after distributing the proceeds of such tax pursuant to subsections (2) and (3) of this section, any proceeds of such tax remain, the State Treasurer shall place such remainder in the Nebraska Capital Construction Fund.

(5) The Legislature hereby finds and determines that the projects funded from the Municipal Infrastructure Redevelopment Fund and the Building Renewal Allocation Fund are of critical importance to the State of Nebraska. It is the intent of the Legislature that the allocations and appropriations made by the Legislature to such funds or, in the case of allocations for the Municipal Infrastructure Redevelopment Fund, to the particular municipality's account not be reduced until all contracts and securities relating to the construction and financing of the projects or portions of the projects funded from such funds or accounts of such funds are completed or paid or, in the case of the Municipal Infrastructure Redevelopment Fund, the earlier of such date or July 1, 2009, and that until such time any reductions in the cigarette tax rate made by the Legislature shall be simultaneously accompanied by equivalent reductions in the amount dedicated to the General Fund from cigarette tax revenue. Any provision made by the Legislature for distribution of the proceeds of the cigarette tax for projects or programs other than those to (a) the General Fund, (b) the Nebraska Outdoor Recreation Development Cash Fund, (c) the Health and Human Services Cash Fund, (d) the Municipal Infrastructure Redevelopment Fund, (e) the Building Renewal Allocation Fund, (f) the Information Technology Infrastructure Fund, (g) the City of the Primary Class Development Fund, (h) the City of the Metropolitan Class Development Fund, and (i) the

Nebraska Public Safety Communication System Cash Fund shall not be made a higher priority than or an equal priority to any of the programs or projects specified in subdivisions (a) through (i) of this subsection.

**Source:** Laws 1947, c. 267, § 2, p. 861; Laws 1957, c. 341, § 1, p. 1179; Laws 1963, c. 457, § 1, p. 1483; Laws 1965, c. 501, § 2, p. 1595; Laws 1965, c. 500, § 1, p. 1590; Laws 1969, c. 645, § 10, p. 2562; Laws 1971, LB 87, § 1; Laws 1972, LB 1433, § 1; Laws 1973, LB 447, § 5; Laws 1974, LB 945, § 9; Laws 1975, Spec. Sess., LB 6, § 67; Laws 1976, LB 1004, § 24; Laws 1976, LB 1006, § 6; Laws 1978, LB 109, § 3; Laws 1981, LB 506, § 5; Laws 1982, LB 753, § 1; Laws 1983, LB 192, § 1; Laws 1983, LB 410, § 1; Laws 1983, LB 469, § 4; Laws 1984, LB 862, § 1; Laws 1985, LB 728, § 1; Laws 1985, LB 653A, § 1; Laws 1985, Second Spec. Sess., LB 3, § 1; Laws 1986, LB 258, § 16; Laws 1986, LB 842, § 1; Laws 1987, LB 730, § 27; Laws 1987, LB 218, § 1; Laws 1989, LB 683, § 1; Laws 1990, LB 1220, § 1; Laws 1991, LB 703, § 65; Laws 1992, Third Spec. Sess., LB 9, § 1; Laws 1992, Third Spec. Sess., LB 11, § 1; Laws 1993, LB 22, § 1; Laws 1993, LB 595, § 2; Laws 1994, LB 961, § 8; Laws 1996, LB 1044, § 795; Laws 1996, LB 1190, § 15; Laws 1998, LB 1107, § 2; Laws 1999, LB 683, § 1; Laws 2000, LB 1349, § 1; Laws 2001, LB 657, § 5; Laws 2002, LB 1085, § 1; Laws 2003, LB 440, § 2; Laws 2003, LB 759, § 3; Laws 2005, LB 426, § 15; Laws 2007, LB296, § 703; Laws 2007, LB322, § 20; Laws 2011, LB590, § 20.  
Operative date January 1, 2013.

**Cross References**

**Deferred Building Renewal Act**, see section 81-190.  
**Municipal Infrastructure Redevelopment Fund Act**, see section 18-2601.  
**Task Force for Building Renewal**, see section 81-174.

**77-2602.03 Increase in tax; applicability; stamping agents; duties; credit to wholesaler.**

The increase in the tax shall apply to all unused stamps, meter impressions, and packages of stamped cigarettes owned by stamping agents at 12:01 a.m. on the day the increase becomes operative. On the date any change in the tax takes effect, each stamping agent shall take an inventory of all unused stamps, meter impressions, and packages of stamped cigarettes owned by the cigarette wholesaler at 12:01 a.m. The additional tax shall be remitted with the return for the last month preceding the date any change in the tax takes effect. The Tax Commissioner shall credit to each stamping agent an amount equal to the additional tax on two weeks of such stamping agent's average purchases of stamps.

**Source:** Laws 1982, LB 753, § 3; Laws 1985, LB 653A, § 2; Laws 1985, Second Spec. Sess., LB 3, § 2; Laws 1987, LB 730, § 28; Laws 2002, LB 989, § 10; Laws 2011, LB590, § 21.  
Operative date January 1, 2013.

**77-2602.05 Cigarette tax; exempt transaction; refund; application; documentation; interest; tax refund formula authorized.**



(1) A person that paid taxes applicable under section 77-2602 on cigarettes sold in an exempt transaction shall be eligible for a refund of the taxes paid on those cigarettes.

(2) Exempt transactions, for purposes of this section and section 69-2703, are defined as:

(a) Cigarette sales on a federal installation in a transaction that is exempt from state taxation under federal law; and

(b) Cigarette sales on an Indian tribe's Indian country to its tribal members where state taxation is precluded by federal law.

(3) Except as provided in subsection (5) of this section, the person seeking a refund of taxes shall submit an application to the Tax Commissioner providing documentation sufficient to demonstrate (a) that the cigarettes were sold in a package bearing the correct stamp required under section 77-2603 or 77-2603.01 and that the stamp was one that required payment of tax, (b) that the person paid the applicable taxes in question, (c) that the cigarettes were sold in an exempt transaction, and (d) that the person has not previously obtained the refund on the cigarettes. The documentation shall include, in addition to information necessary to meet the requirements of subdivisions (3)(a) through (d) of this section and any other information that the Tax Commissioner may reasonably require, documents showing the identity of the seller and purchaser and the places of shipment and delivery of the cigarettes. The Tax Commissioner shall verify the accuracy and completeness of the required documentation and information before granting the requested refund.

(4) If a meritorious refund claim under subsection (3) of this section is not paid within sixty days after submission of the required documentation, the refund shall include interest on the amount of such refund at the rate specified in section 45-104.02 as such rate existed at the date of submission of the required documentation.

(5) The Tax Commissioner and an Indian tribe may agree upon a tax refund formula to operate in lieu of application for refunds under subsection (3) of this section. The aggregate refund provided to an Indian tribe under a formula for a year shall not exceed the aggregate tax paid by entities owned and operated by that tribe or member of that tribe on cigarettes sold in exempt transactions on that tribe's Indian country during that year. Refunds of taxes under subsection (3) of this section shall not be available for cigarettes sold in exempt transactions on an Indian tribe's Indian country by an Indian tribe that agrees upon a refund formula under this subsection. Nothing in this subsection shall limit the state's authority to enter into an agreement pursuant to section 77-2602.06 pertaining to the collection and dissemination of any cigarette taxes which may otherwise be inconsistent with this subsection.

**Source:** Laws 2011, LB590, § 22.

Operative date January 1, 2013.

**77-2602.06 Governor; agreement with federally recognized Indian tribe authorized; contents; tribal taxes; additional agreement, compact, or treaty authorized.**

(1) The Governor or his or her designated representative may negotiate and execute an agreement with the governing body of any federally recognized Indian tribe within the State of Nebraska concerning the collection and

dissemination of any cigarette tax or other tobacco product tax under this section and sections 77-2602.05 and 77-2603.01 or escrow collected pursuant to section 69-2703, on sales of cigarettes, roll-your-own, or smokeless tobacco made or sold on a federally recognized Indian tribe's Indian country. The agreement shall specify:

- (a) Its duration;
  - (b) Its purpose;
  - (c) Provisions for administering, collecting, and enforcing the agreement and for the mutual waiver of sovereign immunity objections with respect to such provisions;
  - (d) Remittance of taxes and escrow collected;
  - (e) The division of the proceeds of the tax and escrow between the parties;
  - (f) The method to be employed in accomplishing the partial or complete termination of the agreement;
  - (g) A dispute resolution procedure;
  - (h) Adequate reporting and auditing provisions; and
  - (i) Any other necessary and proper matters.
- (2) The agreement shall require tribal taxes to be imposed equally on all cigarettes and other tobacco products regardless of manufacturer or brand.
- (3) The agreement shall require that all packages of cigarettes bear either a stamp under section 77-2603 or a tribal stamp under section 77-2603.01.
- (4) The agreement may provide for the sale of cigarettes not included in the directory under section 69-2706, but only if the agreement requires that such cigarettes bear the tribal stamp under section 77-2603.01 and only if the agreement includes provisions to account for escrow deposits on such cigarettes in amounts equal to and in a manner consistent with the deposits required of manufacturers under section 69-2703 or otherwise requires payment of escrow by the manufacturers in accordance with section 69-2703 and pursuant to section 69-2708.01.
- (5) An Indian tribe entering into an agreement under this section shall agree not to license or otherwise authorize an individual tribal member or other person or entity to sell cigarettes, roll-your-own, or smokeless tobacco in violation of the terms of the agreement.
- (6) The state may, in the best interests of the state, enter into any future agreement, compact, or treaty with any Indian tribe that is consistent with sections 77-2602.05, 77-2602.06, and 77-2603.01.

**Source:** Laws 2011, LB590, § 23.

Operative date August 27, 2011.

**77-2603 Tax; stamps; tax meter impressions; requirements; stamping agent; license; application; form; service of process; corporate surety bond; Tax Commissioner; duties; directory license; application; term.**

(1) The tax, as levied in section 77-2602, shall be paid and stamps or cigarette tax meter impressions shall be affixed or printed with a cigarette tax meter by the person having possession and ownership of such cigarettes after the same shall have come to rest in this state and intended to be sold or given away in this state. Nothing in sections 77-2601 to 77-2615 shall be construed to require

a stamping agent to fix the retail price or to require any retail dealer to sell at any particular price. Subject to such rules and regulations as the Tax Commissioner shall prescribe, tax meter machines may be used when approved by the Tax Commissioner to affix a suitable stamp or impression on each package of cigarettes and cigarettes with a tax meter impression shall be treated as stamped cigarettes for purposes of sections 69-2701 to 69-2711 and 77-2601 to 77-2615. Before any person is issued a license to affix stamps or cigarette tax meter impressions, the person shall make application to become licensed as a stamping agent to the Tax Commissioner on a form provided by the Tax Commissioner to engage in such activity.

(2) Any manufacturer, importer, sales entity affiliate, wholesale dealer, or retail dealer that engages in the business of selling cigarettes may apply to be licensed as a stamping agent in accordance with this section. A license shall be issued by the Tax Commissioner to an applicant upon the applicant's:

(a) Meeting all requirements of sections 69-2701 to 69-2711 and 77-2601 to 77-2615 and rules and regulations pursuant to such sections;

(b) Certifying on a form prescribed by the Tax Commissioner that it will comply with the requirements of section 69-2708; and

(c) In the case of an applicant located outside of the state, designating an agent for service of process in Nebraska, and providing notice thereof as required by section 69-2707, in connection with enforcement of sections 69-2701 to 69-2711 and 77-2601 to 77-2615, and, if approval is given by the Tax Commissioner, the manufacturer, importer, sales entity affiliate, wholesale dealer, or retail dealer shall furnish a corporate surety bond, conditioned to faithfully comply with all the requirements of sections 77-2601 to 77-2615, in a sum not less than ten thousand dollars. Such bond shall be subject to forfeiture if the stamping agent fails to pay the shortfall amount under subsection (1) of section 69-2708.01 unless the stamping agent is excused from liability under subsection (3) of section 69-2708.01.

(3) Nothing in sections 77-2601 to 77-2615 shall prevent the Tax Commissioner from affixing the stamps or meter impressions in lieu of the provisions for affixing stamps and meter impressions by stamping agents as determined by such rules and regulations adopted by the Tax Commissioner.

(4) The Tax Commissioner shall list on its web site the names of all persons licensed as stamping agents under this section. Manufacturers, importers, and sales entity affiliates shall be entitled to rely upon the list in selling cigarettes as provided in section 69-2706.

(5) A manufacturer, importer, sales entity affiliate, wholesale dealer, or retail dealer that engages in the business of selling cigarettes and that holds a valid stamping agent license under subsection (1) of this section may apply for a directory license allowing it to purchase or possess in the state cigarettes of a manufacturer or brand family not at the time of purchase listed in the directory for sale into another state if permitted under section 69-2706. A directory license shall be issued by the Tax Commissioner to an applicant upon the applicant's (a) demonstrating that it holds a valid license under subsection (1) of this section and (b) providing a certification by an officer thereof on a form prescribed by the Tax Commissioner that any cigarettes of a manufacturer or brand family not listed in the directory will be purchased or possessed solely for sale or transfer into another state as permitted by section 69-2706. The directory license shall remain in effect for a period of one year.

(6) No directory license may be issued to a person that acted inconsistently with a certification it previously made under subsection (2) of this section.

(7) The Tax Commissioner shall list on its web site the names of all persons holding a directory license. Manufacturers, importers, sales entity affiliates, and stamping agents shall be entitled to rely upon the list in selling cigarettes as provided in section 69-2706.

**Source:** Laws 1947, c. 267, § 3, p. 862; Laws 1949, c. 245, § 1, p. 665; Laws 1951, c. 271, § 1, p. 905; Laws 1963, c. 458, § 1, p. 1484; Laws 2002, LB 989, § 11; Laws 2003, LB 572, § 10; Laws 2011, LB590, § 24.

Operative date January 1, 2013.

**77-2603.01 Tribal stamp; authorized.**

The state may enter into an agreement with an Indian tribe pursuant to section 77-2602.06 which contemplates the use of a tribal stamp for sales of cigarettes on an Indian tribe's Indian country in lieu of the cigarette stamp required under section 77-2603.

**Source:** Laws 2011, LB590, § 25.

Operative date January 1, 2013.

**77-2604 Tax Commissioner; forms; reports; contents; when due; sharing of information.**

(1) Every stamping agent, wholesale dealer, and retail dealer who is subject to sections 77-2601 to 77-2622 shall make and file with the Tax Commissioner, on or before the fifteenth day of each calendar month on blanks furnished by the Tax Commissioner, true, correct, and sworn reports covering, for the last preceding calendar month, the number of cigarettes purchased, from whom purchased, the specific kinds and brands thereof, the manufacturer, if known, and such other matters and in such detail as the Tax Commissioner may require.

(2)(a) Each manufacturer and importer that sells cigarettes in or into the state shall, within fifteen days following the end of each month, file a report on a form and in the manner prescribed by the Tax Commissioner and certify to the state that the report is complete and accurate.

(b) The report shall contain the following information: The total number of cigarettes sold by that manufacturer or importer in or into the state during that month and identifying by name and number of cigarettes, (i) the manufacturers of those cigarettes, (ii) the brand families of those cigarettes, and (iii) the purchasers of those cigarettes. A manufacturer's or importer's report shall include cigarettes sold in or into the state through its sales entity affiliate.

(c) The requirements of this subsection shall be satisfied and no further report shall be required under this section with respect to cigarettes if the manufacturer or importer timely submits to the Tax Commissioner the report or reports required to be submitted by it with respect to those cigarettes under 15 U.S.C. 376 to the Tax Commissioner and certifies to the state that the reports are complete and accurate.

(d) Upon request by the Tax Commissioner, a manufacturer or importer shall provide copies of all sales reports referenced in subdivisions (2)(a) and (b) of this section that it filed in other states.

(e) Each manufacturer and importer that sells cigarettes in or into the state shall either (i) submit its federal excise tax returns and all monthly operational reports on Alcohol and Tobacco Tax and Trade Bureau Form 5210.5 and all adjustments, changes, and amendments to such reports to the Tax Commissioner no later than sixty days after the close of the quarter in which the returns were filed or (ii) submit to the United States Treasury a request or consent under section 6103(c) of the Internal Revenue Code of 1986 as defined in section 49-801.01 authorizing the federal Alcohol and Tobacco Tax and Trade Bureau and, in the case of a foreign manufacturer or importer, the United States Customs Service to disclose the manufacturer's or importer's federal returns to the Tax Commissioner as of sixty days after the close of the quarter in which the returns were filed.

(3) The Tax Commissioner may share the information reported under this section with the taxing or law enforcement authorities of this state and other states.

**Source:** Laws 1947, c. 267, § 4, p. 862; Laws 2002, LB 989, § 12; Laws 2011, LB590, § 26.

Operative date January 1, 2013.

**77-2604.01 Cigarette sales; reports required; form; contents; sharing of information.**

(1) Any person that sells cigarettes from this state into another state shall, within fifteen days following the end of each month, file a report on a form and in the manner prescribed by the Tax Commissioner and certify to the state that the report is complete and accurate.

(2) The report shall contain the following information:

(a) The total number of cigarettes sold from this state into another state by the person during that month, identifying by name and number of cigarettes (i) the manufacturers of those cigarettes, (ii) the brand families of those cigarettes, and (iii) the name and address of each recipient of those cigarettes;

(b) The number of stamps of each other state the person affixed to the packages containing those cigarettes during that month, the total number of cigarettes contained in the packages to which it affixed each respective other state's stamp and by name and number of cigarettes, and the manufacturers and brand families of the packages to which it affixed each respective other state's stamp; and

(c) If the person sold cigarettes during that month from this state into another state in packages not bearing a stamp of the other state, (i) the total number of cigarettes contained in such packages, identifying by name and number of cigarettes, the manufacturers of those cigarettes, the brand families of those cigarettes, and the name and address of each recipient of those cigarettes, and (ii) the person's basis for belief that such state permits the sale of the cigarettes to consumers in a package not bearing a stamp, and the amount of excise, use, or similar tax imposed on the cigarettes paid by the person to such state on the cigarettes. Manufacturers and importers need include the information described in subdivision (2)(c)(i) of this section only as to cigarettes not sold to a person authorized by the law of the other state to affix the stamp required by the other state.

(3) In the case of a manufacturer or importer, the report shall include cigarettes sold from this state into another state through its sales entity affiliate. A sales entity affiliate shall file a separate report under this section only to the extent that it sold cigarettes from this state into another state not separately reported under this section by its affiliated manufacturer or importer.

(4) The Tax Commissioner may share the information reported under this section with the taxing or law enforcement authorities of this state or other states.

**Source:** Laws 2011, LB590, § 27.  
Operative date January 1, 2013.

**77-2605 Cigarette purchase or sale records; inspection.**

The books, records, papers, receipts, invoices, and supply of cigarettes of any person, including wholesale and retail dealers, stamping agents, and persons transporting cigarettes, subject to the provisions of sections 77-2601 to 77-2615 which pertain to the purchase or sale of cigarettes shall be subject to inspection at any time during ordinary business hours by the Tax Commissioner or his or her representatives.

**Source:** Laws 1947, c. 267, § 5, p. 862; Laws 2011, LB590, § 28.  
Operative date January 1, 2013.

**77-2607 Stamping agent; stock; exempt from tax; conditions.**

Each stamping agent may set aside such portion of the stamping agent's stock of cigarettes as is not intended to be sold or given away in this state and it will not be necessary to affix the stamps or tax meter impressions thereon required under section 77-2606, except that if such stock is not disposed of and out of the possession of the stamping agent within thirty days of the date of receipt thereof, the cigarettes, packages, or pieces shall immediately be stamped as required by sections 77-2601 to 77-2615. Each stamping agent shall immediately mark in ink on each unopened box, carton, or other container of such cigarettes, received and the date of receipt and shall affix the stamping agent's signature thereto. Within forty-eight hours after such box, carton, or other container is opened, the stamping agent shall immediately affix such stamps or tax impressions to each package and cancel the stamps affixed thereto.

**Source:** Laws 1947, c. 267, § 7, p. 863; Laws 2011, LB590, § 29.  
Operative date January 1, 2013.

**77-2608 Tax Commissioner; duties; audit; discount; funds; disposition.**

The Tax Commissioner shall prepare and have suitable stamps for use on each kind of piece or package of cigarettes, except when cigarette tax meter impressions are affixed. Requisition for the preparation of such stamps shall be made through the materiel division of the Department of Administrative Services as other state supplies are requisitioned, and the Tax Commissioner and his or her bondsperson shall be liable for the value of all such stamps delivered to him or her. The Auditor of Public Accounts shall audit as often as the auditor deems advisable the records of the Tax Commissioner with respect to the money received from the sale of stamps and as revenue from tax meter impressions for the purpose of determining the accuracy and correctness of the same. The Tax Commissioner shall sell or distribute the stamps only to licensed

stamping agents, as provided in section 77-2603 or 77-2603.01, and the stamping agent shall keep an accurate record of all stamps coming into and leaving the stamping agent's possession. Such stamps shall be sold and accounted for at the face value thereof, except that the Tax Commissioner may, by rule and regulation certified to the State Treasurer, authorize the sale thereof to stamping agents in this state or outside of this state at a discount of one and eighty-five hundredths percent of such face value of the tax as a commission for affixing and canceling such stamps. Any stamping agent using a tax meter machine shall be entitled to the same discount as allowed a stamping agent for affixing and canceling the stamps. The money received by the Tax Commissioner from the sale of the stamps and as revenue from such tax meter impressions shall be deposited by him or her daily with the State Treasurer who shall credit such money as provided in section 77-2602. Upon proof by the Tax Commissioner that he or she can affix such stamps or meter impressions, warehouse and distribute such cigarettes, and collect such revenue at a cost less than any discount allowed to stamping agents pursuant to this section, he or she may then proceed to affix the stamps himself or herself after giving the stamping agents sixty days' notice and purchasing all equipment used by them for the purpose of affixing such stamps or meter impressions at a fair market value.

**Source:** Laws 1947, c. 267, § 8, p. 863; Laws 1949, c. 245, § 2, p. 666; Laws 1949, c. 246, § 1, p. 668; Laws 1963, c. 458, § 2, p. 1485; Laws 1965, c. 501, § 3, p. 1596; Laws 1965, c. 500, § 2, p. 1591; Laws 1971, LB 87, § 2; Laws 1985, LB 653A, § 3; Laws 1985, Second Spec. Sess., LB 3, § 3; Laws 1987, LB 730, § 29; Laws 2000, LB 654, § 4; Laws 2002, Second Spec. Sess., LB 46, § 1; Laws 2003, LB 572, § 11; Laws 2011, LB337, § 6; Laws 2011, LB590, § 30.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB337, section 6, with LB590, section 30, to reflect all amendments.

**Note:** Changes made by LB337 became effective April 27, 2011. Changes made by LB590 became operative January 1, 2013.

#### **77-2610 Stamps; redemption by Tax Commissioner; errors; adjust.**

Upon the written request of the original purchaser thereof and upon the return of any unused stamps, the Tax Commissioner shall redeem such stamps. The Tax Commissioner shall prepare a voucher showing the amount of such returned unused stamps and shall cause to be drawn a warrant upon the State Treasurer for such amount in favor of the person returning such unused stamps. The refunds shall be paid from the various funds named in section 77-2602 in the same proportions as the proceeds of the tax are allocated. By the terms of sections 77-2601 to 77-2615, the Tax Commissioner and the State Treasurer are specifically authorized to adjust all errors in payments for unused stamps.

**Source:** Laws 1947, c. 267, § 10, p. 864; Laws 1959, c. 353, § 7, p. 1246; Laws 1965, c. 501, § 4, p. 1597; Laws 1965, c. 459, § 20, p. 1462; Laws 1969, c. 645, § 11, p. 2562; Laws 1971, LB 87, § 3; Laws 2011, LB590, § 31.  
Operative date January 1, 2013.

**77-2612 Tax Commissioner; personnel; rules and regulations; stamping agent; license; fee.**

The Tax Commissioner may employ, with the advice and consent of the Governor, a sufficient number of inspectors, clerks, assistants, and agents to enforce sections 77-2601 to 77-2622, including the collection of all stamp taxes and all revenue from cigarette tax meters. In such enforcement, the Tax Commissioner may call to his or her aid the Attorney General, any county attorney, any sheriff, any deputy sheriff, or any other peace officer. The compensation of all persons employed shall be fixed by the Governor and shall be paid from the revenue derived under such sections. The expenses of administering such sections, including necessary assistants, clerical help, cost of enforcement, cost of stamps, and incidental expenses, when approved by the Tax Commissioner, shall be paid by warrants, issued against the General Fund, but such warrants shall not exceed four percent of the funds collected under such sections, such expenses in each instance to be approved by the Tax Commissioner.

The Tax Commissioner may adopt and promulgate rules and regulations which are consistent with sections 77-2601 to 77-2622 and their proper enforcement.

Each stamping agent shall annually apply to the Tax Commissioner, upon forms to be furnished by the Tax Commissioner, for a license to use the tax meter machines, as set forth in section 77-2603, or to purchase such stamps as provided in section 77-2608, or both. The license shall expire on December 31 each year. Each wholesale dealer applying for a stamping agent license shall furnish with such application evidence satisfactory to the Tax Commissioner showing that the wholesale dealer has obtained a license as a wholesale dealer in accordance with section 28-1423. The applicant shall accompany the application with a fee of five hundred dollars to be placed in the General Fund if the license is granted and otherwise to be returned to the applicant. If the applicant is an individual, the application shall include the applicant's social security number. If the application is approved and the bond referred to in section 77-2603 is given and approved, if such bond is required under section 77-2603, the Tax Commissioner shall issue such license which shall be conspicuously posted in the place of business of such stamping agent.

**Source:** Laws 1947, c. 267, § 12, p. 864; Laws 1959, c. 353, § 8, p. 1246; Laws 1965, c. 501, § 5, p. 1597; Laws 1965, c. 500, § 3, p. 1591; Laws 1965, c. 364, § 19, p. 1193; Laws 1978, LB 748, § 43; Laws 1982, LB 928, § 63; Laws 1997, LB 752, § 211; Laws 2002, LB 989, § 14; Laws 2011, LB590, § 32.

Operative date January 1, 2013.

#### **77-2613 State Treasurer; disbursements for administration.**

The State Treasurer shall place all sums of money received under sections 77-2601 to 77-2615 as provided in section 77-2602, and from time to time, upon voucher approved by the Tax Commissioner, disburse such sum or sums as may be necessary to administer and carry out the provisions of sections 77-2601 to 77-2615 relating to the collection of the tax, subject to the limitations provided in such sections.

**Source:** Laws 1947, c. 267, § 13, p. 865; Laws 1949, c. 245, § 3, p. 666; Laws 1959, c. 353, § 9, p. 1247; Laws 1965, c. 501, § 6, p. 1599; Laws 1965, c. 500, § 4, p. 1593; Laws 2011, LB590, § 33.  
Operative date January 1, 2013.



**77-2614 License; permit; stamp; alter; forge; counterfeit; violations; penalty.**

Any person who, with intent to defraud the state, shall make, alter, forge, or counterfeit any license, permit, stamp, or cigarette tax meter impression provided for in sections 77-2601 to 77-2615, or who shall have in his or her possession any forged, counterfeited, spurious, or altered license, permit, stamp, or cigarette tax meter impression, with intent to use the same, knowing or having reasonable grounds to believe the same to be such, or shall have in his or her possession one or more cigarette stamps or cigarette tax meter impressions which he or she knows have been removed from the pieces or packages of cigarettes to which they were affixed, or who affixes to any piece or package of cigarettes a stamp or cigarette tax meter impression which he or she knows has been removed from any other piece or package of cigarettes shall be deemed guilty of a Class IV felony.

**Source:** Laws 1947, c. 267, § 14, p. 865; Laws 1977, LB 39, § 236; Laws 2011, LB590, § 34.

Operative date January 1, 2013.

**77-2615 Prohibited acts; violations; penalty; prima facie evidence.**

Any person who violates sections 77-2601 to 77-2615, or any rule or regulation adopted and promulgated in accordance therewith, for which a specific penalty is not otherwise provided or who shall, except as permitted by sections 77-2601 to 77-2615, sell, deliver, or accept, with intent to evade the provisions of such sections, any cigarettes upon which the tax provided by section 77-2602 has not been paid or who affixes a stamp permitted under section 77-2603 or 77-2603.01 to a package of cigarettes of a tobacco product manufacturer or brand family not included in the directory pursuant to section 69-2706 or who sells, offers, or possesses for sale in this state cigarettes of a tobacco product manufacturer or brand family not included in the directory shall be deemed guilty of a Class IV felony. If any person is found to have in his or her possession more than ten unstamped packages of cigarettes, except as permitted under section 77-2607, it shall be prima facie evidence of attempt to evade sections 77-2601 to 77-2615.

**Source:** Laws 1947, c. 267, § 15, p. 866; Laws 1949, c. 245, § 4, p. 667; Laws 1977, LB 39, § 237; Laws 2011, LB590, § 35.

Operative date January 1, 2013.

**77-2615.01 Licensees; disciplinary action; procedure; appeal; joint and several liability; when.**

(1) In addition to sections 77-2615 and 77-2622, for any violation of sections 77-2601 to 77-2622 or the rules and regulations adopted and promulgated under such sections, the Tax Commissioner may:

(a) After notice and hearing, suspend or revoke the licenses of any person licensed under sections 28-1420 to 28-1429 or 77-2601 to 77-2622. Notice of hearing shall be given as provided in the Administrative Procedure Act; and

(b) Impose an administrative penalty not to exceed one thousand dollars for any violation.

(2) No person whose license has been suspended or revoked shall sell cigarettes or permit cigarettes to be sold during the period of suspension or revocation on the premises occupied by him or her. No disciplinary proceeding

or action shall be barred or abated by the expiration, transfer, surrender, continuance, renewal, or extension of any license issued under sections 28-1420 to 28-1429 or 77-2601 to 77-2622.

(3) Any person aggrieved by any decision, order, or finding of the Tax Commissioner may appeal the decision, order, or finding, and the appeal shall be in accordance with the Administrative Procedure Act.

(4) If a person's license has been suspended or revoked and the person's name has been removed for at least ten days from the list of licensed entities published by the Tax Commissioner under subsection (4) of section 77-2603, any person that sells cigarettes to or purchases cigarettes from such person shall be jointly and severally liable for any taxes applicable to such cigarettes under section 77-2602 and for any escrow due on such cigarettes under section 69-2703.

**Source:** Laws 2002, LB 989, § 15; Laws 2011, LB590, § 36.  
Operative date January 1, 2013.

**Cross References**

**Administrative Procedure Act**, see section 84-920.

**77-2620 Contraband cigarettes; confiscation; destruction.**

All cigarettes subject to the tax as imposed by section 77-2602, to which stamps have not been affixed or tax impressions made, as required by sections 77-2601 to 77-2615, except as permitted by the provisions of section 77-2607, when found in any place in this state are declared to be contraband goods and may be seized by the Tax Commissioner, by the Tax Commissioner's agents or employees, or by any peace officer of this state, when directed by the Tax Commissioner to do so, without a warrant. The Tax Commissioner may, upon satisfactory proof, direct the return of any confiscated cigarettes when he or she has reason to believe that the owner thereof has not willfully or intentionally evaded any tax imposed under section 77-2602. The Tax Commissioner may, in the absence of proof of good faith, confiscate any unstamped cigarettes or cigarettes without tax impressions found in the possession of any person, except as permitted by section 77-2607. Any cigarettes forfeited to the state under this section shall be destroyed or used for law enforcement purposes and then destroyed. The Tax Commissioner, his or her agents and employees, and any peace officer of this state, when directed so to do, shall not in any way be responsible in any court for the seizure or the confiscation of any unstamped packages of cigarettes or cigarettes without tax impressions.

**Source:** Laws 1951, c. 272, § 1, p. 906; Laws 1965, c. 501, § 8, p. 1599; Laws 1965, c. 500, § 5, p. 1593; Laws 2002, LB 989, § 17; Laws 2003, LB 572, § 12; Laws 2011, LB590, § 37.  
Operative date January 1, 2013.

**77-2622 Common carrier; unstamped cigarettes; bond; permit; violation; penalty.**

Failure to comply with section 77-2621 shall be cause for revocation of the permit issued under section 77-2621 and forfeiture of the bond posted pursuant to section 77-2621.

**Source:** Laws 1951, c. 255, § 2, p. 877; Laws 2011, LB590, § 38.  
Operative date January 1, 2013.

## ARTICLE 27

## SALES AND INCOME TAX

## (b) SALES AND USE TAX

Section	
77-2703.	Sales and use tax; rate; collection; understatement; violation; penalty; interest.
77-2703.03.	Direct mail sourcing.
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77-2704.50.	Railroad rolling stock; common or contract carrier; exemption.
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77-2708.	Sales and use tax; returns; date due; failure to file; penalty; deduction; amount; claim for refund; allowance; disallowance; proceedings.
77-2709.	Sales and use tax; return; Tax Commissioner; deficiency determination; penalty; deficiency; notice; hearing; order.
77-2712.03.	Streamlined sales and use tax agreement; ratified; governing board; members.

## (c) INCOME TAX

77-2715.07.	Income tax credits.
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## (d) GENERAL PROVISIONS

77-27,132.	Revenue Distribution Fund; created; use; collections under act; disposition.
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## (e) GOVERNMENTAL SUBDIVISION AID

77-27,136.	Repealed. Laws 2011, LB 383, § 9.
77-27,137.01.	Repealed. Laws 2011, LB 383, § 9.
77-27,137.02.	Repealed. Laws 2011, LB 383, § 9.
77-27,137.03.	Repealed. Laws 2011, LB 383, § 9.
77-27,139.	Repealed. Laws 2011, LB 383, § 9.
77-27,139.02.	Aid to municipalities; terms, defined.
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## (g) LOCAL OPTION REVENUE ACT

77-27,143.	Municipalities; sales and use tax laws; administration; termination; data bases; required.
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## (m) NEBRASKA ADVANTAGE RURAL DEVELOPMENT ACT

77-27,187.02.	Application; contents; fee; written agreement; contents.
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## (s) RENEWABLE ENERGY TAX CREDIT

77-27,235.	Renewable energy tax credit; Department of Revenue; powers.
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## (b) SALES AND USE TAX

**77-2703 Sales and use tax; rate; collection; understatement; violation; penalty; interest.**

(1) There is hereby imposed a tax at the rate provided in section 77-2701.02 upon the gross receipts from all sales of tangible personal property sold at retail in this state; the gross receipts of every person engaged as a public utility, as a community antenna television service operator, or as a satellite service operator, any person involved in the connecting and installing of the services defined

in subdivision (2)(a), (b), (d), or (e) of section 77-2701.16, or every person engaged as a retailer of intellectual or entertainment properties referred to in subsection (3) of section 77-2701.16; the gross receipts from the sale of admissions in this state; the gross receipts from the sale of warranties, guarantees, service agreements, or maintenance agreements when the items covered are subject to tax under this section; beginning January 1, 2008, the gross receipts from the sale of bundled transactions when one or more of the products included in the bundle are taxable; the gross receipts from the provision of services defined in subsection (4) of section 77-2701.16; and the gross receipts from the sale of products delivered electronically as described in subsection (9) of section 77-2701.16. Except as provided in section 77-2701.03, when there is a sale, the tax shall be imposed at the rate in effect at the time the gross receipts are realized under the accounting basis used by the retailer to maintain his or her books and records.

(a) The tax imposed by this section shall be collected by the retailer from the consumer. It shall constitute a part of the purchase price and until collected shall be a debt from the consumer to the retailer and shall be recoverable at law in the same manner as other debts. The tax required to be collected by the retailer from the consumer constitutes a debt owed by the retailer to this state.

(b) It is unlawful for any retailer to advertise, hold out, or state to the public or to any customer, directly or indirectly, that the tax or part thereof will be assumed or absorbed by the retailer, that it will not be added to the selling, renting, or leasing price of the property sold, rented, or leased, or that, if added, it or any part thereof will be refunded. The provisions of this subdivision shall not apply to a public utility.

(c) The tax required to be collected by the retailer from the purchaser, unless otherwise provided by statute or by rule and regulation of the Tax Commissioner, shall be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sales, rentals, or leases.

(d) For the purpose of more efficiently securing the payment, collection, and accounting for the sales tax and for the convenience of the retailer in collecting the sales tax, it shall be the duty of the Tax Commissioner to provide a schedule or schedules of the amounts to be collected from the consumer or user to effectuate the computation and collection of the tax imposed by the Nebraska Revenue Act of 1967. Such schedule or schedules shall provide that the tax shall be collected from the consumer or user uniformly on sales according to brackets based on sales prices of the item or items. Retailers may compute the tax due on any transaction on an item or an invoice basis. The rounding rule provided in section 77-3,117 applies.

(e) The use of tokens or stamps for the purpose of collecting or enforcing the collection of the taxes imposed in the Nebraska Revenue Act of 1967 or for any other purpose in connection with such taxes is prohibited.

(f) For the purpose of the proper administration of the provisions of the Nebraska Revenue Act of 1967 and to prevent evasion of the retail sales tax, it shall be presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of property is not a sale at retail is upon the person who makes the sale unless he or she takes from the purchaser (i) a resale certificate to the effect that the property is purchased for the purpose of reselling, leasing, or renting it, (ii) an exemption certificate

pursuant to subsection (7) of section 77-2705, or (iii) a direct payment permit pursuant to sections 77-2705.01 to 77-2705.03. Receipt of a resale certificate, exemption certificate, or direct payment permit shall be conclusive proof for the seller that the sale was made for resale or was exempt or that the tax will be paid directly to the state.

(g) In the rental or lease of automobiles, trucks, trailers, semitrailers, and truck-tractors as defined in the Motor Vehicle Registration Act, the tax shall be collected by the lessor on the rental or lease price, except as otherwise provided within this section.

(h) In the rental or lease of automobiles, trucks, trailers, semitrailers, and truck-tractors as defined in the act, for periods of one year or more, the lessor may elect not to collect and remit the sales tax on the gross receipts and instead pay a sales tax on the cost of such vehicle. If such election is made, it shall be made pursuant to the following conditions:

(i) Notice of the desire to make such election shall be filed with the Tax Commissioner and shall not become effective until the Tax Commissioner is satisfied that the taxpayer has complied with all conditions of this subsection and all rules and regulations of the Tax Commissioner;

(ii) Such election when made shall continue in force and effect for a period of not less than two years and thereafter until such time as the lessor elects to terminate the election;

(iii) When such election is made, it shall apply to all vehicles of the lessor rented or leased for periods of one year or more except vehicles to be leased to common or contract carriers who provide to the lessor a valid common or contract carrier exemption certificate. If the lessor rents or leases other vehicles for periods of less than one year, such lessor shall maintain his or her books and records and his or her accounting procedure as the Tax Commissioner prescribes; and

(iv) The Tax Commissioner by rule and regulation shall prescribe the contents and form of the notice of election, a procedure for the determination of the tax base of vehicles which are under an existing lease at the time such election becomes effective, the method and manner for terminating such election, and such other rules and regulations as may be necessary for the proper administration of this subdivision.

(i) The tax imposed by this section on the sales of motor vehicles, semitrailers, and trailers as defined in sections 60-339, 60-348, and 60-354 shall be the liability of the purchaser and, with the exception of motor vehicles, semitrailers, and trailers registered pursuant to section 60-3,198, the tax shall be collected by the county treasurer or designated county official as provided in the Motor Vehicle Registration Act at the time the purchaser makes application for the registration of the motor vehicle, semitrailer, or trailer for operation upon the highways of this state. The tax imposed by this section on motor vehicles, semitrailers, and trailers registered pursuant to section 60-3,198 shall be collected by the Department of Motor Vehicles at the time the purchaser makes application for the registration of the motor vehicle, semitrailer, or trailer for operation upon the highways of this state. At the time of the sale of any motor vehicle, semitrailer, or trailer, the seller shall (i) state on the sales invoice the dollar amount of the tax imposed under this section and (ii) furnish to the purchaser a certified statement of the transaction, in such form as the Tax Commissioner prescribes, setting forth as a minimum the total sales price, the

allowance for any trade-in, and the difference between the two. The sales tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. Any seller who willfully understates the amount upon which the sales tax is due shall be subject to a penalty of one thousand dollars. A copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. If the seller fails to state on the sales invoice the dollar amount of the tax due, the purchaser shall have the right and authority to rescind any agreement for purchase and to declare the purchase null and void. If the purchaser retains such motor vehicle, semitrailer, or trailer in this state and does not register it for operation on the highways of this state within thirty days of the purchase thereof, the tax imposed by this section shall immediately thereafter be paid by the purchaser to the county treasurer, the designated county official, or the Department of Motor Vehicles. If the tax is not paid on or before the thirtieth day after its purchase, the county treasurer, designated county official, or Department of Motor Vehicles shall also collect from the purchaser interest from the thirtieth day through the date of payment and sales tax penalties as provided in the Nebraska Revenue Act of 1967. The county treasurer, designated county official, or Department of Motor Vehicles shall report and remit the tax so collected to the Tax Commissioner by the fifteenth day of the following month. The county treasurer or designated county official shall deduct and withhold for the use of the county general fund, from all amounts required to be collected under this subsection, the collection fee permitted to be deducted by any retailer collecting the sales tax. The Department of Motor Vehicles shall deduct, withhold, and deposit in the Motor Carrier Division Cash Fund the collection fee permitted to be deducted by any retailer collecting the sales tax. The collection fee shall be forfeited if the county treasurer, designated county official, or Department of Motor Vehicles violates any rule or regulation pertaining to the collection of the use tax.

(j)(i) The tax imposed by this section on the sale of a motorboat as defined in section 37-1204 shall be the liability of the purchaser. The tax shall be collected by the county treasurer or designated county official at the time the purchaser makes application for the registration of the motorboat. At the time of the sale of a motorboat, the seller shall (A) state on the sales invoice the dollar amount of the tax imposed under this section and (B) furnish to the purchaser a certified statement of the transaction, in such form as the Tax Commissioner prescribes, setting forth as a minimum the total sales price, the allowance for any trade-in, and the difference between the two. The sales tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. Any seller who willfully understates the amount upon which the sales tax is due shall be subject to a penalty of one thousand dollars. A copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. If the seller fails to state on the sales invoice the dollar amount of the tax due, the purchaser shall have the right and authority to rescind any agreement for purchase and to declare the purchase null and void. If the purchaser retains such motorboat in this state and does not

register it within thirty days of the purchase thereof, the tax imposed by this section shall immediately thereafter be paid by the purchaser to the county treasurer or designated county official. If the tax is not paid on or before the thirtieth day after its purchase, the county treasurer or designated county official shall also collect from the purchaser interest from the thirtieth day through the date of payment and sales tax penalties as provided in the Nebraska Revenue Act of 1967. The county treasurer or designated county official shall report and remit the tax so collected to the Tax Commissioner by the fifteenth day of the following month. The county treasurer or designated county official shall deduct and withhold for the use of the county general fund, from all amounts required to be collected under this subsection, the collection fee permitted to be deducted by any retailer collecting the sales tax. The collection fee shall be forfeited if the county treasurer or designated county official violates any rule or regulation pertaining to the collection of the use tax.

(ii) In the rental or lease of motorboats, the tax shall be collected by the lessor on the rental or lease price.

(k) The Tax Commissioner shall adopt and promulgate necessary rules and regulations for determining the amount subject to the taxes imposed by this section so as to insure that the full amount of any applicable tax is paid in cases in which a sale is made of which a part is subject to the taxes imposed by this section and a part of which is not so subject and a separate accounting is not practical or economical.

(2) A use tax is hereby imposed on the storage, use, or other consumption in this state of property purchased, leased, or rented from any retailer and on any transaction the gross receipts of which are subject to tax under subsection (1) of this section on or after June 1, 1967, for storage, use, or other consumption in this state at the rate set as provided in subsection (1) of this section on the sales price of the property or, in the case of leases or rentals, of the lease or rental prices.

(a) Every person storing, using, or otherwise consuming in this state property purchased from a retailer or leased or rented from another person for such purpose shall be liable for the use tax at the rate in effect when his or her liability for the use tax becomes certain under the accounting basis used to maintain his or her books and records. His or her liability shall not be extinguished until the use tax has been paid to this state, except that a receipt from a retailer engaged in business in this state or from a retailer who is authorized by the Tax Commissioner, under such rules and regulations as he or she may prescribe, to collect the sales tax and who is, for the purposes of the Nebraska Revenue Act of 1967 relating to the sales tax, regarded as a retailer engaged in business in this state, which receipt is given to the purchaser pursuant to subdivision (b) of this subsection, shall be sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

(b) Every retailer engaged in business in this state and selling, leasing, or renting property for storage, use, or other consumption in this state shall, at the time of making any sale, collect any tax which may be due from the purchaser and shall give to the purchaser, upon request, a receipt therefor in the manner and form prescribed by the Tax Commissioner.

(c) The Tax Commissioner, in order to facilitate the proper administration of the use tax, may designate such person or persons as he or she may deem necessary to be use tax collectors and delegate to such persons such authority

as is necessary to collect any use tax which is due and payable to the State of Nebraska. The Tax Commissioner may require of all persons so designated a surety bond in favor of the State of Nebraska to insure against any misappropriation of state funds so collected. The Tax Commissioner may require any tax official, city, county, or state, to collect the use tax on behalf of the state. All persons designated to or required to collect the use tax shall account for such collections in the manner prescribed by the Tax Commissioner. Nothing in this subdivision shall be so construed as to prevent the Tax Commissioner or his or her employees from collecting any use taxes due and payable to the State of Nebraska.

(d) All persons designated to collect the use tax and all persons required to collect the use tax shall forward the total of such collections to the Tax Commissioner at such time and in such manner as the Tax Commissioner may prescribe. For all use taxes collected prior to October 1, 2002, such collectors of the use tax shall deduct and withhold from the amount of taxes collected two and one-half percent of the first three thousand dollars remitted each month and one-half of one percent of all amounts in excess of three thousand dollars remitted each month as reimbursement for the cost of collecting the tax. For use taxes collected on and after October 1, 2002, such collectors of the use tax shall deduct and withhold from the amount of taxes collected two and one-half percent of the first three thousand dollars remitted each month as reimbursement for the cost of collecting the tax. Any such deduction shall be forfeited to the State of Nebraska if such collector violates any rule, regulation, or directive of the Tax Commissioner.

(e) For the purpose of the proper administration of the Nebraska Revenue Act of 1967 and to prevent evasion of the use tax, it shall be presumed that property sold, leased, or rented by any person for delivery in this state is sold, leased, or rented for storage, use, or other consumption in this state until the contrary is established. The burden of proving the contrary is upon the person who purchases, leases, or rents the property.

(f) For the purpose of the proper administration of the Nebraska Revenue Act of 1967 and to prevent evasion of the use tax, for the sale of property to an advertising agency which purchases the property as an agent for a disclosed or undisclosed principal, the advertising agency is and remains liable for the sales and use tax on the purchase the same as if the principal had made the purchase directly.

**Source:** Laws 1967, c. 487, § 3, p. 1543; Laws 1967, c. 490, § 2, p. 1652; Laws 1969, c. 684, § 1, p. 2646; Laws 1969, c. 683, § 2, p. 2621; Laws 1974, LB 820, § 2; Laws 1981, LB 179, § 14; Laws 1983, LB 17, § 2; Laws 1983, LB 169, § 1; Laws 1983, LB 571, § 1; Laws 1985, LB 715, § 3; Laws 1985, LB 273, § 42; Laws 1986, LB 1027, § 204; Laws 1987, LB 224, § 28; Laws 1987, LB 523, § 14; Laws 1991, LB 239, § 1; Laws 1991, LB 47, § 7; Laws 1991, LB 829, § 21; Laws 1992, LB 871, § 25; Laws 1992, LB 1063, § 182; Laws 1992, Second Spec. Sess., LB 1, § 155; Laws 1992, Fourth Spec. Sess., LB 1, § 26; Laws 1993, LB 112, § 45; Laws 1993, LB 345, § 33; Laws 1993, LB 767, § 1; Laws 1994, LB 123, § 24; Laws 1994, LB 994, § 1; Laws 1994, LB 1207, § 15; Laws 1995, LB 17, § 1; Laws 1996, LB 1041, § 6; Laws 1996, LB 1218, § 65; Laws 1997, LB 62, § 1; Laws 1997, LB 182A, § 3; Laws 2002, LB 1085, § 11; Laws 2002, Second Spec.



Sess., LB 32, § 1; Laws 2003, LB 282, § 48; Laws 2003, LB 381, § 3; Laws 2003, LB 563, § 43; Laws 2003, LB 759, § 12; Laws 2004, LB 1017, § 10; Laws 2005, LB 274, § 274; Laws 2007, LB223, § 7; Laws 2007, LB367, § 15; Laws 2008, LB916, § 15; Laws 2011, LB211, § 3.

Operative date October 1, 2011.

**Cross References**

**Motor Vehicle Registration Act**, see section 60-301.

**77-2703.03 Direct mail sourcing.**

(1) This section applies when sourcing sales of direct mail. For purposes of this section:

(a) Advertising and promotional direct mail means direct mail that has the primary purpose of attracting public attention to a product, person, business, or organization or attempting to sell, popularize, or secure financial support for a product, person, business, or organization; and

(b)(i) Other direct mail means any direct mail that is not advertising and promotional direct mail, regardless of whether advertising and promotional direct mail is included in the same mailing.

(ii) Other direct mail includes, but is not limited to:

(A) Transactional direct mail that contains personal information specific to the addressee, including, but not limited to, invoices, bills, statements of account, and payroll advices;

(B) Any legally required mailings, including, but not limited to, privacy notices, tax reports, and stockholder reports; and

(C) Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees, or agents, including, but not limited to, newsletters and informational pieces.

(iii) Other direct mail does not include the development of billing information or any data processing service that is more than incidental.

(2) The sale of advertising and promotional direct mail shall be sourced as follows:

(a) If the purchaser of advertising and promotional direct mail provides the retailer with a direct payment permit, certificate of exemption authorized by the streamlined sales and use tax agreement, or written statement claiming exemption that has been approved, authorized, or accepted by the Tax Commissioner, the purchaser shall source the sale to the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients and shall report and pay any applicable tax due. In the absence of bad faith, the retailer is relieved of all obligations to collect, pay, or remit any tax on any transaction involving advertising and promotional direct mail to which the direct payment permit, certificate of exemption, or written statement applies;

(b) If the purchaser of advertising and promotional direct mail provides the retailer with information showing the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients, the retailer shall source the sale to the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients and shall collect and remit the applicable tax. In the absence of bad faith, the retailer is relieved of any further obligation

to collect any additional tax on the sale of advertising and promotional direct mail; or

(c) If neither subdivision (a) of this subsection nor subdivision (b) of this subsection applies, then the sale of advertising and promotional direct mail shall be sourced according to subsection (6) of section 77-2703.01. The tax paid shall not constitute a properly paid tax for purposes of allowing credit against state and local option sales and use tax due.

(3) The sale of other direct mail shall be sourced as follows:

(a) If the purchaser of other direct mail provides the retailer with a direct payment permit, certificate of exemption authorized by the streamlined sales and use tax agreement, or written statement claiming exemption that has been approved, authorized, or accepted by the Tax Commissioner, the purchaser shall source the sale to the jurisdictions to which the other direct mail is to be delivered to recipients and shall report and pay any applicable tax due. In the absence of bad faith, the retailer is relieved of all obligations to collect, pay, or remit any tax on any transaction involving other direct mail to which the direct payment permit, certificate of exemption, or written statement applies; or

(b) If subdivision (a) of this subsection does not apply, then the sale of other direct mail shall be sourced according to subsection (4) of section 77-2703.01. The tax paid shall not constitute a properly paid tax for purposes of allowing credit against state and local option sales and use tax due.

(4) This section applies to transactions characterized under state law as sales of services only if the service is an integral part of the production and distribution of direct mail.

(5) If a transaction is a bundled transaction that includes advertising and promotional direct mail, this section applies only if the primary purpose of the transaction is the sale of advertising and promotional direct mail.

(6) This section does not apply to any transaction that includes the development of billing information or the provision of any data processing service that is more than incidental, regardless of whether advertising and promotional direct mail is included in the same mailing.

**Source:** Laws 2003, LB 282, § 51; Laws 2011, LB211, § 4.  
Operative date October 1, 2011.

#### **77-2704.10 Prepared food and food and food ingredients; exemption.**

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:

(1) Prepared food and food and food ingredients served by public or private schools, school districts, student organizations, or parent-teacher associations pursuant to an agreement with the proper school authorities, in an elementary or secondary school or at any institution of higher education, public or private, during the regular school day or at an approved function of any such school or institution, but such exemption shall not apply to sales at any facility or function which is open to the general public, except that concession sales by elementary and secondary schools, public or private, shall be exempt;

(2) Prepared food and food and food ingredients sold by a church at a function of such church;

(3) Prepared food and food and food ingredients served to patients and inmates of hospitals and other institutions licensed by the state for the care of human beings;

(4) Prepared food and food and food ingredients sold at a political event by ballot question committees, candidate committees, independent committees, and political party committees as defined in the Nebraska Political Accountability and Disclosure Act or fees and admissions charged for such political event;

(5) Prepared food and food and food ingredients sold to the elderly, handicapped, or recipients of Supplemental Security Income by an organization that actually accepts electronic benefits transfer under regulations issued by the United States Department of Agriculture although it is not necessary for the purchaser to use electronic benefits transfer to pay for the prepared food and food and food ingredients; and

(6) Fees and admissions charged by a public or private elementary or secondary school and fees and admissions charged by a school district, student organization, or parent-teacher association, pursuant to an agreement with the proper school authorities, in a public or private elementary or secondary school during the regular school day or at an approved function of any such school.

**Source:** Laws 1992, LB 871, § 34; Laws 1993, LB 345, § 40; Laws 2003, LB 282, § 54; Laws 2011, LB211, § 5.  
Operative date October 1, 2011.

**Cross References**

Nebraska Political Accountability and Disclosure Act, see section 49-1401.

**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 regionally or nationally accredited, nonprofit, privately controlled college or university with its primary campus physically located in Nebraska, (e) any nonprofit (i) hospital, (ii) health clinic when two 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 the mentally retarded, (vii) nursing facility, (viii) home health agency, (ix) hospice or hospice service, or (x) respite care service licensed under the Health Care Facility Licensure Act, (f) any nonprofit licensed child-caring agency, (g) any nonprofit licensed child placement agency, or (h) any nonprofit organization certified by the Department of Health and Human Services to provide community-based services for persons with developmental disabilities.

(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. Effective date May 5, 2011.

**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) 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, natural resources district, 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 to fulfill the purposes described in the Integrated Solid Waste Management Act by any combination of two or more counties, townships, cities, or villages 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.

(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.  
Operative date July 1, 2011.

#### 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.

#### **77-2704.50 Railroad rolling stock; common or contract carrier; exemption.**

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 from the purchase in this state or the purchase outside this state, with title passing in this state, of materials and replacement parts and any associated labor used as or used directly in the repair and maintenance or manufacture of railroad rolling stock, whether owned by a railroad or by any person, whether a common or contract carrier or otherwise, motor vehicles, watercraft, or aircraft engaged as common or contract carriers or the purchase in such manner of motor vehicles, watercraft, or aircraft to be used as common or contract carriers. All purchasers seeking to take advantage of the exemption shall apply to the Tax Commissioner for a common or contract carrier exemption. All common or contract carrier exemption certificates shall expire on October 31,

2013, and on October 31 every five years thereafter. All persons seeking to continue to take advantage of the common or contract carrier exemption shall apply for a new certificate at the expiration of the prior certificate. The Tax Commissioner shall notify such exemption certificate holders at least sixty days prior to the expiration date of such certificate that the certificate will expire and be null and void as of such date.

**Source:** Laws 2003, LB 282, § 65; Laws 2011, LB210, § 7.  
Operative date October 1, 2011.

**77-2705.01 Direct payment permit; issuance; application; fee.**

(1) The Tax Commissioner may issue direct payment permits to any person who annually purchases at least three million dollars of taxable property excluding purchases for which a resale certificate could be used.

(2) The applicant for a direct payment permit shall apply on a form prescribed by the Tax Commissioner. The applicant shall pay a nonrefundable fee of ten dollars for processing the application. The application shall include the agreement of the applicant to accrue and pay to the Tax Commissioner on or before the twentieth day of the month following the date of purchase, lease, or rental all sales and use taxes on the taxable property purchased, leased, or rented by the applicant unless the items are exempt from taxation and the tax paid will be treated as a sales tax. The Tax Commissioner may require a description of the accounting methods by which an applicant will differentiate between taxable and exempt transactions.

(3) The Tax Commissioner may issue a direct payment permit to any applicant who meets the requirements of subsections (1) and (2) of this section. The direct payment permit shall become effective on the first day of the month following approval of an application. The decision of the Tax Commissioner under this section is not appealable. An applicant who is denied a direct payment permit may submit an amended application or reapply.

(4) A direct payment permit is not transferable.

(5) The holder of a direct payment permit is not entitled to any collection fee otherwise payable to those who collect and remit sales and use taxes.

**Source:** Laws 1997, LB 182A, § 4; Laws 2011, LB210, § 8.  
Operative date October 1, 2011.

**77-2708 Sales and use tax; returns; date due; failure to file; penalty; deduction; amount; claim for refund; allowance; disallowance; proceedings.**

(1)(a) The sales and use taxes imposed by the Nebraska Revenue Act of 1967 shall be due and payable to the Tax Commissioner monthly on or before the twentieth day of the month next succeeding each monthly period unless otherwise provided pursuant to the Nebraska Revenue Act of 1967.

(b)(i) On or before the twentieth day of the month following each monthly period or such other period as the Tax Commissioner may require, a return for such period, along with all taxes due, shall be filed with the Tax Commissioner in such form and content as the Tax Commissioner may prescribe and containing such information as the Tax Commissioner deems necessary for the proper administration of the Nebraska Revenue Act of 1967. The Tax Commissioner, if he or she deems it necessary in order to insure payment to or facilitate the collection by the state of the amount of sales or use taxes due, may require

returns and payment of the amount of such taxes for periods other than monthly periods in the case of a particular seller, retailer, or purchaser, as the case may be. The Tax Commissioner shall by rule and regulation require reports and tax payments from sellers, retailers, or purchasers depending on their yearly tax liability. Except as required by the streamlined sales and use tax agreement, annual returns shall be required if such sellers', retailers', or purchasers' yearly tax liability is less than nine hundred dollars, quarterly returns shall be required if their yearly tax liability is nine hundred dollars or more and less than three thousand dollars, and monthly returns shall be required if their yearly tax liability is three thousand dollars or more. The Tax Commissioner shall have the discretion to allow an annual return for seasonal retailers, even when their yearly tax liability exceeds the amounts listed in this subdivision.

The Tax Commissioner may adopt and promulgate rules and regulations to allow annual, semiannual, or quarterly returns for any retailer making monthly remittances or payments of sales and use taxes by electronic funds transfer or for any retailer remitting tax to the state pursuant to the streamlined sales and use tax agreement. Such rules and regulations may establish a method of determining the amount of the payment that will result in substantially all of the tax liability being paid each quarter. At least once each year, the difference between the amount paid and the amount due shall be reconciled. If the difference is more than ten percent of the amount paid, a penalty of fifty percent of the unpaid amount shall be imposed.

(ii) For purposes of the sales tax, a return shall be filed by every retailer liable for collection from a purchaser and payment to the state of the tax, except that a combined sales tax return may be filed for all licensed locations which are subject to common ownership. For purposes of this subdivision, common ownership means the same person or persons own eighty percent or more of each licensed location. For purposes of the use tax, a return shall be filed by every retailer engaged in business in this state and by every person who has purchased property, the storage, use, or other consumption of which is subject to the use tax, but who has not paid the use tax due to a retailer required to collect the tax.

(iii) The Tax Commissioner may require that returns be signed by the person required to file the return or by his or her duly authorized agent but need not be verified by oath.

(iv) A taxpayer who keeps his or her regular books and records on a cash basis, an accrual basis, or any generally recognized accounting basis which correctly reflects the operation of the business may file the sales and use tax returns required by the Nebraska Revenue Act of 1967 on the same accounting basis that is used for the regular books and records, except that on credit, conditional, and installment sales, the retailer who keeps his or her books on an accrual basis may report such sales on the cash basis and pay the tax upon the collections made during each month. If a taxpayer transfers, sells, assigns, or otherwise disposes of an account receivable, he or she shall be deemed to have received the full balance of the consideration for the original sale and shall be liable for the remittance of the sales tax on the balance of the total sale price not previously reported, except that such transfer, sale, assignment, or other disposition of an account receivable by a retailer to a subsidiary shall not be deemed to require the retailer to pay the sales tax on the credit sale represented by the account transferred prior to the time the customer makes payment on

such account. If the subsidiary does not obtain a Nebraska sales tax permit, the taxpayer shall obtain a surety bond in favor of the State of Nebraska to insure payment of the tax and any interest and penalty imposed thereon under this section in an amount not less than two times the amount of tax payable on outstanding accounts receivable held by the subsidiary as of the end of the prior calendar year. Failure to obtain either a sales tax permit or a surety bond in accordance with this section shall result in the payment on the next required filing date of all sales taxes not previously remitted. When the retailer has adopted one basis or the other of reporting credit, conditional, or installment sales and paying the tax thereon, he or she will not be permitted to change from that basis without first having notified the Tax Commissioner.

(c) Except as provided in the streamlined sales and use tax agreement, the taxpayer required to file the return shall deliver or mail any required return together with a remittance of the net amount of the tax due to the office of the Tax Commissioner on or before the required filing date. Failure to file the return, filing after the required filing date, failure to remit the net amount of the tax due, or remitting the net amount of the tax due after the required filing date shall be cause for a penalty, in addition to interest, of ten percent of the amount of tax not paid by the required filing date or twenty-five dollars, whichever is greater, unless the penalty is being collected under subdivision (1)(i) or (1)(j)(i) of section 77-2703 by a county treasurer, a designated county official, or the Department of Motor Vehicles, in which case the penalty shall be five dollars.

(d) The taxpayer shall deduct and withhold, from the taxes otherwise due from him or her on his or her tax return, two and one-half percent of the first three thousand dollars remitted each month to reimburse himself or herself for the cost of collecting the tax. Taxpayers filing a combined return as allowed by subdivision (1)(b)(ii) of this subsection shall compute such collection fees on the basis of the receipts and liability of each licensed location.

(2)(a) If the Tax Commissioner determines that any sales or use tax amount, penalty, or interest has been paid more than once, has been erroneously or illegally collected or computed, or has been paid and the purchaser qualifies for a refund under section 77-2708.01, the Tax Commissioner shall set forth that fact in his or her records and the excess amount collected or paid may be credited on any sales, use, or income tax amounts then due and payable from the person under the Nebraska Revenue Act of 1967. Any balance may be refunded to the person by whom it was paid or his or her successors, administrators, or executors.

(b) No refund shall be allowed unless a claim therefor is filed with the Tax Commissioner by the person who made the overpayment or his or her attorney, executor, or administrator within three years from the required filing date following the close of the period for which the overpayment was made, within six months after any determination becomes final under section 77-2709, or within six months from the date of overpayment with respect to such determinations, whichever of these three periods expires later, unless the credit relates to a period for which a waiver has been given. Failure to file a claim within the time prescribed in this subsection shall constitute a waiver of any demand against the state on account of overpayment.



(c) Every claim shall be in writing on forms prescribed by the Tax Commissioner and shall state the specific amount and grounds upon which the claim is founded. No refund shall be made in any amount less than two dollars.

(d) The Tax Commissioner shall allow or disallow a claim within one hundred eighty days after it has been filed. A request for a hearing shall constitute a waiver of the one-hundred-eighty-day period. The claimant and the Tax Commissioner may also agree to extend the one-hundred-eighty-day period. If a hearing has not been requested and the Tax Commissioner has neither allowed nor disallowed a claim within either the one hundred eighty days or the period agreed to by the claimant and the Tax Commissioner, the claim shall be deemed to have been allowed.

(e) Within thirty days after disallowing any claim in whole or in part, the Tax Commissioner shall serve notice of his or her action on the claimant in the manner prescribed for service of notice of a deficiency determination.

(f) Within thirty days after the mailing of the notice of the Tax Commissioner's action upon a claim filed pursuant to the Nebraska Revenue Act of 1967, the action of the Tax Commissioner shall be final unless the taxpayer seeks review of the Tax Commissioner's determination as provided in section 77-27,127.

(g) Upon the allowance of a credit or refund of any sum erroneously or illegally assessed or collected, of any penalty collected without authority, or of any sum which was excessive or in any manner wrongfully collected, interest shall be allowed and paid on the amount of such credit or refund at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, from the date such sum was paid or from the date the return was required to be filed, whichever date is later, to the date of the allowance of the refund or, in the case of a credit, to the due date of the amount against which the credit is allowed, but in the case of a voluntary and unrequested payment in excess of actual tax liability or a refund under section 77-2708.01, no interest shall be allowed when such excess is refunded or credited.

(h) No suit or proceeding shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed.

(i) The Tax Commissioner may recover any refund or part thereof which is erroneously made and any credit or part thereof which is erroneously allowed by issuing a deficiency determination within one year from the date of refund or credit or within the period otherwise allowed for issuing a deficiency determination, whichever expires later.

(j)(i) Credit shall be allowed to the retailer, contractor, or repairperson for sales or use taxes paid pursuant to the Nebraska Revenue Act of 1967 on any deduction taken that is attributed to bad debts not including interest. Bad debt has the same meaning as in 26 U.S.C. 166, as such section existed on January 1, 2003. However, the amount calculated pursuant to 26 U.S.C. 166 shall be adjusted to exclude: Financing charges or interest; sales or use taxes charged on the purchase price; uncollectible amounts on property that remains in the possession of the seller until the full purchase price is paid; and expenses incurred in attempting to collect any debt and repossessed property.

(ii) Bad debts may be deducted on the return for the period during which the bad debt is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. A claimant who is

not required to file federal income tax returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return.

(iii) If a deduction is taken for a bad debt and the debt is subsequently collected in whole or in part, the tax on the amount so collected must be paid and reported on the return filed for the period in which the collection is made.

(iv) When the amount of bad debt exceeds the amount of taxable sales for the period during which the bad debt is written off, a refund claim may be filed within the otherwise applicable statute of limitations for refund claims. The statute of limitations shall be measured from the due date of the return on which the bad debt could first be claimed.

(v) If filing responsibilities have been assumed by a certified service provider, the service provider may claim, on behalf of the retailer, any bad debt allowance provided by this section. The certified service provider shall credit or refund the full amount of any bad debt allowance or refund received to the retailer.

(vi) For purposes of reporting a payment received on a previously claimed bad debt, any payments made on a debt or account are applied first proportionally to the taxable price of the property or service and the sales tax thereon, and secondly to interest, service charges, and any other charges.

(vii) In situations in which the books and records of the party claiming the bad debt allowance support an allocation of the bad debts among the member states in the streamlined sales and use tax agreement, the state shall permit the allocation.

**Source:** Laws 1967, c. 487, § 8, p. 1558; Laws 1967, c. 490, § 5, p. 1665; Laws 1969, c. 683, § 5, p. 2635; Laws 1976, LB 996, § 1; Laws 1981, LB 179, § 15; Laws 1981, LB 167, § 51; Laws 1982, Spec. Sess., LB 2, § 1; Laws 1983, LB 101, § 1; Laws 1983, LB 571, § 2; Laws 1984, LB 758, § 1; Laws 1985, LB 715, § 7; Laws 1985, LB 273, § 46; Laws 1987, LB 775, § 15; Laws 1987, LB 523, § 16; Laws 1988, LB 1234, § 1; Laws 1991, LB 829, § 23; Laws 1992, LB 1063, § 183; Laws 1992, Second Spec. Sess., LB 1, § 156; Laws 1992, Fourth Spec. Sess., LB 1, § 28; Laws 1993, LB 128, § 1; Laws 1993, LB 345, § 56; Laws 1995, LB 9, § 1; Laws 1995, LB 118, § 1; Laws 1996, LB 1041, § 7; Laws 2002, Second Spec. Sess., LB 32, § 3; Laws 2003, LB 282, § 71; Laws 2005, LB 216, § 8; Laws 2008, LB916, § 25; Laws 2011, LB210, § 9.

Operative date October 1, 2011.

**77-2709 Sales and use tax; return; Tax Commissioner; deficiency determination; penalty; deficiency; notice; hearing; order.**

(1) If the Tax Commissioner is not satisfied with the return or returns of the tax or the amount of tax required to be paid to the state by any person, he or she may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within his or her possession or which may come into his or her possession. One or more deficiency determinations of the amount due for one

or more than one period may be made. To the amount of the deficiency determination for each period shall be added a penalty equal to ten percent thereof or twenty-five dollars, whichever is greater. In making a determination, the Tax Commissioner may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for other period or periods, against penalties, and against the interest on the underpayments.

The interest on underpayments and overpayments shall be computed in the manner set forth hereinafter.

(2) If any person fails to make a return, the Tax Commissioner shall make an estimate of the amount of the gross receipts of the person or, as the case may be, of the amount of the total sales, rent, or lease price of property sold, rented, or leased or purchased, by the person, the storage, use, or consumption of which in this state is subject to the use tax. The estimate shall be made for the period or periods in respect to which the person failed to make a return and shall be based upon any information which is in the Tax Commissioner's possession or may come into his or her possession. Upon the basis of this estimate, the Tax Commissioner shall compute and determine the amount required to be paid to the state, adding to the sum thus arrived at a penalty equal to ten percent thereof or twenty-five dollars, whichever is greater. One or more determinations may be made for one or more than one period.

(3) The amount of the determination of any deficiency exclusive of penalties shall bear interest at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, from the twentieth of the month following the period for which the amount should have been returned until the date of payment.

(4) If any part of a deficiency for which a deficiency determination is made is the result of fraud or an intent to evade the Nebraska Revenue Act of 1967 or authorized rules and regulations, a penalty of twenty-five percent of the amount of the determination or fifty dollars, whichever is greater, shall be added thereto.

(5)(a) Promptly after making his or her determination, the Tax Commissioner shall give to the person written notice of his or her determination.

(b) The notice may be served personally or by mail, and if by mail the notice shall be addressed to the person at his or her address as it appears in the records of the Tax Commissioner. In case of service by mail of any notice required by the Nebraska Revenue Act of 1967, the service is complete at the time of deposit in the United States post office.

(c) Every notice of a deficiency determination shall be personally served or mailed within three years after the last day of the calendar month following the period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later. In the case of failure to make a return, every notice of determination shall be mailed or personally served within five years after the last day of the calendar month following the period for which the amount is proposed to be determined.

(d) When, before the expiration of the time prescribed in this section for the mailing of a notice of deficiency determination, both the Tax Commissioner and the taxpayer have consented in writing to its mailing after such time, the notice of the deficiency determination may be mailed at any time prior to the expiration of the period agreed upon. The agreed-upon period may be extended

by subsequent agreement, in writing, made before the expiration of the period previously agreed upon.

(6) When a business is discontinued, a determination may be made at any time thereafter within the periods specified in this section as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in the Nebraska Revenue Act of 1967.

(7) Any person against whom a determination is made under subsections (1) and (2) of this section or any person directly interested may petition for a redetermination within sixty days after service upon the person of notice thereof. For the purposes of this subsection, a person is directly interested in a deficiency determination when such deficiency could be collected from such person. If a petition for redetermination is not filed within the sixty-day period, the determination becomes final at the expiration of the period.

(8) If a petition for redetermination is filed within the sixty-day period, the Tax Commissioner shall reconsider the determination and, if the person has so requested in his or her petition, shall grant the person an oral hearing and shall give him or her ten days' notice of the time and place of the hearing. The Tax Commissioner may continue the hearing from time to time as may be necessary.

(9) The Tax Commissioner may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the Tax Commissioner at or before the hearing, upon which assertion the petitioner shall be entitled to a thirty-day continuance of the hearing to allow him or her to obtain and produce further evidence applicable to the items upon which the increase is based.

(10) The order or decision of the Tax Commissioner upon a petition for redetermination shall become final thirty days after service upon the petitioner of notice thereof.

(11) All determinations made by the Tax Commissioner under the provisions of subsections (1) and (2) of this section are due and payable at the time they become final. If they are not paid when due and payable, a penalty of ten percent of the amount of the determination, exclusive of interest and penalties, shall be added thereto.

(12) Any notice required by this section shall be served personally or by mail in the manner prescribed in subsection (5) of this section.

**Source:** Laws 1967, c. 487, § 9, p. 1562; Laws 1969, c. 683, § 6, p. 2639; Laws 1976, LB 996, § 2; Laws 1981, LB 167, § 52; Laws 1985, LB 273, § 47; Laws 1992, Fourth Spec. Sess., LB 1, § 30; Laws 1993, LB 345, § 58; Laws 2008, LB914, § 7; Laws 2011, LB210, § 10.

Operative date October 1, 2011.

**77-2712.03 Streamlined sales and use tax agreement; ratified; governing board; members.**

(1) The streamlined sales and use tax agreement, as adopted by the streamlined sales tax implementing states on November 12, 2002, including amendments through December 31, 2010, is hereby ratified by the Legislature. The Governor shall enter into the agreement with one or more states to simplify and

modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. In furtherance of the agreement, the Department of Revenue is authorized to act jointly with other states that are members under Articles VII or VIII of the agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multi-state sellers. The department is further authorized to take other actions permissible under law reasonably required to implement the provisions set forth in the agreement. Other actions authorized by this section include, but are not limited to, the adoption and promulgation of rules and regulations and the joint procurement, with other member states, of goods and services in furtherance of the agreement.

(2) The Tax Commissioner or his or her designee and two representatives of the Legislature appointed by the Executive Board of the Legislative Council are authorized to represent Nebraska before the other member states under the agreement. The state also agrees to participate in and comply with the procedures of and decisions made by the governing board of the member states. These provisions of the agreement include the creation of the organization as provided in Article VII of the agreement, the requirements for state entry and withdrawal as provided in Article VIII of the agreement, amendments to the agreement as provided in Article IX of the agreement, and a dispute resolution process as provided in Article X of the agreement.

**Source:** Laws 2001, LB 172, § 4; Laws 2003, LB 282, § 75; Laws 2007, LB223, § 10; Laws 2010, LB879, § 10; Laws 2011, LB211, § 6. Operative date October 1, 2011.

**Cross References**

Executive Board of the Legislative Council, see section 50-401.01.

(c) INCOME TAX

**77-2715.07 Income tax credits.**

(1) There shall be allowed to qualified resident individuals as a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) A credit equal to the federal credit allowed under section 22 of the Internal Revenue Code; and

(b) A credit for taxes paid to another state as provided in section 77-2730.

(2) There shall be allowed to qualified resident individuals against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) For returns filed reporting federal adjusted gross incomes of greater than twenty-nine thousand dollars, a nonrefundable credit equal to twenty-five percent of the federal credit allowed under section 21 of the Internal Revenue Code of 1986, as amended;

(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;

(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, or the Nebraska Advantage Research and Development 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.

(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; and

(c) A credit for investment in a biodiesel facility as provided in section 77-27,236.

(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 (4) 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.

**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.

Operative date January 1, 2011.

#### Cross References

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.

#### **77-2717 Income tax; estates; trusts; rate; fiduciary return; contents; filing; state income tax; contents; credits.**

(1)(a) 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 (i) substituting Nebraska taxable income for federal taxable income, (ii) 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 (iii) 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.

(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, and the Nebraska Advantage Research and Development Act.

(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, and the Nebraska Advantage Research and Development Act. 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, and the Nebraska Advantage Research and Development Act 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. 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. 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. Operative date January 1, 2011.

#### Cross References

**Angel Investment Tax Credit Act**, see section 77-6301.

**Beginning Farmer Tax Credit Act**, see section 77-5201.

**Nebraska Advantage Microenterprise Tax Credit Act**, see section 77-5901.

**Nebraska Advantage Research and Development Act**, see section 77-5801.

#### (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) 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; and

(b) For transactions occurring on or after July 1, 2013, and before July 1, 2033, of the proceeds of the sales and use taxes derived from transactions other than those listed in subdivision (2)(a) of this section from a sales tax rate of one-quarter of one percent, credit monthly eighty-five percent to the State Highway Capital Improvement Fund and fifteen percent to the Highway Allocation Fund.

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.  
Effective date August 27, 2011.

(e) GOVERNMENTAL SUBDIVISION AID

**77-27,136 Repealed. Laws 2011, LB 383, § 9.**

Operative date July 1, 2011.

**77-27,137.01 Repealed. Laws 2011, LB 383, § 9.**

Operative date July 1, 2011.

**77-27,137.02 Repealed. Laws 2011, LB 383, § 9.**

Operative date July 1, 2011.

**77-27,137.03 Repealed. Laws 2011, LB 383, § 9.**

Operative date July 1, 2011.

**77-27,139 Repealed. Laws 2011, LB 383, § 9.**

Operative date July 1, 2011.

**77-27,139.02 Aid to municipalities; terms, defined.**

For purposes of sections 77-27,139.01 to 77-27,139.04:

(1) Average per capita property tax levy means the total property taxes levied by all incorporated municipalities in each population group for the immediately preceding fiscal year, except for the amount of property tax levies committed to provide for principal and interest payments on the indebtedness of all incorporated municipalities, divided by the current population of all incorporated municipalities as certified by the Department of Revenue pursuant to section 77-3,119. The average per capita property tax levy shall be calculated separately for each population group;

(2) Average property tax levy means the total property taxes levied by all incorporated municipalities for the prior year, except for the amount of property tax levies committed to provide for principal and interest payments on the indebtedness of all incorporated municipalities, divided by the total amount of valuation subject to property tax in all incorporated municipalities for the immediately preceding fiscal year;

(3) Population means the population of a municipality as determined in section 77-3,119; and

(4) Population group means one of three groupings of municipalities for which the aid established by sections 77-27,139.01 to 77-27,139.04 is calculated based on the average per capita property tax levy calculated separately for each group. The three population groups shall be (a) municipalities with a population of five thousand inhabitants or more, (b) municipalities with a population between eight hundred and five thousand inhabitants, and (c) municipalities with a population of eight hundred inhabitants or less.

**Source:** Laws 1996, LB 1177, § 2; Laws 1997, LB 269, § 54; Laws 2011, LB383, § 3.

Operative date July 1, 2011.

**77-27,139.03 Aid to municipalities; calculation of state aid.**

(1) State aid provided to municipalities pursuant to sections 77-27,139.01 to 77-27,139.04 shall be calculated by determining the average property tax levy for operational purposes other than for principal and interest payments on the indebtedness of all incorporated municipalities. The Auditor of Public Accounts shall provide to the Department of Revenue a list of the bond and nonbond tax request amounts from the most recent budgets filed by incorporated municipalities. The information shall be used to calculate the bond and nonbond tax levies for aid purposes under this section. The auditor shall provide the information to the department by February 1 each year.

(2) Each municipality shall receive state aid from the Municipal Equalization Fund equal to (a) the product of the average per capita property tax of the appropriate population group multiplied by the current population of the municipality minus (b) the product of the average property tax levy multiplied by the certified valuation within the incorporated municipality, except that a municipality shall not receive any aid under this section if the calculation results in a negative number.

(3) If a municipal tax levy for operational purposes was less than the average property tax levy in the immediately preceding fiscal year, the state aid provided to such municipality shall be reduced by twenty percent for each one-percent increment the levy was below the average property tax levy.

(4) If the amount of money in the Municipal Equalization Fund is less than the total amount of state aid for all municipalities as required by the allocation formula in subsection (2) of this section, the money in the fund shall be allocated on a prorated basis to such municipalities. If the amount of money in the fund is more than the total amount of state aid for municipalities as required by the allocation formula, the excess money in the fund shall be credited to the General Fund.

**Source:** Laws 1996, LB 1177, § 3; Laws 1997, LB 269, § 55; Laws 1998, LB 989, § 5; Laws 1999, LB 141, § 10; Laws 2000, LB 968, § 72; Laws 2003, LB 622, § 1; Laws 2011, LB383, § 4.  
Operative date July 1, 2011.

(g) LOCAL OPTION REVENUE ACT

**77-27,143 Municipalities; sales and use tax laws; administration; termination; data bases; required.**

(1) The administration of all sales and use taxes adopted under the Local Option Revenue Act shall be by the Tax Commissioner who may prescribe forms and adopt and promulgate reasonable rules and regulations in conformity with the act for the making of returns and for the ascertainment, assessment, and collection of taxes imposed under such act. The incorporated municipality shall furnish a certified copy of the adopting or repealing ordinance to the Tax Commissioner in accordance with such rules and regulations as he or she may adopt and promulgate. For ordinances passed after October 1, 1969, the effective date shall be the first day of the next calendar quarter which is at least one hundred twenty days following receipt by the Tax Commissioner of the certified copy of the ordinance. The Tax Commissioner shall provide at least sixty days' notice of the change in tax to retailers. Notice shall be provided to retailers within the municipality. Notice to retailers may be provided through the web site of the Department of Revenue or by other electronic means.

(2) For ordinances containing a termination date and passed after October 1, 1986, the termination date shall be the first day of a calendar quarter. The incorporated municipality shall furnish a certified statement to the Tax Commissioner no more than one hundred eighty days and at least one hundred twenty days prior to the termination date that the termination date stated in the ordinance is still valid. If the certified statement is not furnished within the prescribed time, the tax shall remain in effect, and the Tax Commissioner shall continue to collect the tax until the first day of the calendar quarter which is at least one hundred twenty days after receipt of the certified statement notwithstanding the termination date stated in the ordinance. The Tax Commissioner shall provide at least sixty days' notice of the termination of the tax to retailers. Notice shall be provided to retailers within the municipality. Notice to retailers may be provided through the web site of the department or by other electronic means.

(3) For sales and use tax purposes only, local jurisdiction boundary changes apply only on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the Tax Commissioner and sixty days' notice to sellers.

(4) The state shall provide and maintain a data base that describes boundary changes for all local taxing jurisdictions. This data base shall include a

description of any change and the effective date of the change for sales and use tax purposes.

(5) The state shall provide and maintain a data base of all sales and use tax rates for all of the local jurisdictions levying taxes within the state. For the identification of counties, cities, and villages, codes corresponding to the rates shall be provided according to Federal Information Processing Standards as developed by the National Institute of Standards and Technology.

(6) The state shall provide and maintain a data base that assigns each five-digit and nine-digit zip code within the state to the proper tax rates and jurisdictions. For purposes of the streamlined sales and use tax agreement, the data base shall apply the lowest combined tax rate imposed in the zip code area if the area includes more than one tax rate in any level of taxing jurisdictions. If a nine-digit zip code designation is not available for a street address or if a seller is unable to determine the nine-digit zip code designation applicable to a purchase after exercising due diligence to determine the designation, the seller or certified service provider may apply the rate for the five-digit zip code area. For purposes of this section, there is a rebuttable presumption that a seller or certified service provider has exercised due diligence if the seller has attempted to determine the nine-digit zip code designation by utilizing software approved by the governing board that makes this designation from the street address and the five-digit zip code applicable to a purchase.

(7) For purposes of the streamlined sales and use tax agreement, the state may provide address-based boundary data base records for assigning taxing jurisdictions and their associated rates which shall be in addition to the requirements of subsection (6) of this section. The data base records shall be in the same approved format as the data base records pursuant to subsection (6) of this section and shall meet the requirements developed pursuant to the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. 119(a), as such act existed on January 1, 2003. The governing board may allow a member state to require sellers that register under the agreement to use an address-based boundary data base provided by that member state. If any member state develops an addressed-based boundary data base pursuant to the agreement, a seller or certified service provider may use those data base records in place of the five-digit and nine-digit zip code data base records provided for in subsection (6) of this section. If a seller or certified service provider is unable to determine the applicable rate and jurisdiction using an address-based boundary data base after exercising due diligence, the seller or certified service provider may apply the nine-digit zip code designation applicable to a purchase. If a nine-digit zip code designation is not available for a street address or if a seller or certified service provider is unable to determine the nine-digit zip code designation applicable to a purchase after exercising due diligence to determine the designation, the seller or certified service provider may apply the rate for the five-digit zip code area. For the purposes of this section, there is a rebuttable presumption that a seller or certified service provider has exercised due diligence if the seller or certified service provider has attempted to determine the tax rate and jurisdiction by utilizing software approved by the governing board that makes this assignment from the address and zip code information applicable to the purchase.

(8) The state may certify vendor-provided address-based boundary data bases for assigning tax rates and jurisdictions. The data bases shall be in the same approved format as the data base records pursuant to subsection (7) of this

section and shall meet the requirements developed pursuant to the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. 119(a) as such act existed on January 1, 2003. If a state certifies a vendor-provided address-based boundary data base, a seller or certified service provider may use that data base in place of the data base provided for in subsection (6) or (7) of this section. Vendors providing address-based boundary data bases may request certification of their data bases from the governing board. Certification by the governing board does not replace the requirement that the data bases be certified by the states individually.

(9) Pursuant to the streamlined sales and use tax agreement, the state shall relieve retailers and certified service providers using data bases pursuant to subsection (6) or (7) of this section from liability to the state and local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the retailer or certified service provider relying on erroneous data provided by a member state on tax rates, boundaries, or taxing jurisdiction assignments. After providing adequate notice determined by the governing board, a member state that provides an address-based boundary data base for assigning taxing jurisdictions pursuant to subsection (7) or (8) of this section may cease providing liability relief for errors resulting from the reliance on the data base provided by the member state under the provisions of subsection (6) of this section. If a seller demonstrates that requiring the use of the address-based boundary data base would create an undue hardship, the state and the governing board may extend the relief of liability to such seller for a designated period of time.

(10) The data bases provided for in this section shall be in a downloadable format approved by the governing board pursuant to the streamlined sales and use tax agreement. The data bases may be directly provided by the state or provided by a vendor as designated by the state. A data base provided by a vendor as designated by a state shall be applicable to and subject to all provisions of this section. The data bases shall be provided at no cost to the user of the data base. The provisions of subsections (6) and (7) of this section do not apply when the purchased product is received by the purchaser at the business location of the seller.

(11) A seller that did not have a requirement to register in this state prior to registering pursuant to the agreement or a certified service provider shall not be required to collect sales or use taxes for a state until the first day of the calendar quarter commencing more than sixty days after the state has provided the data bases required by this section.

**Source:** Laws 1969, c. 629, § 2, p. 2530; Laws 1969, c. 683, § 8, p. 2644; Laws 1986, LB 890, § 4; Laws 2003, LB 282, § 81; Laws 2003, LB 381, § 4; Laws 2005, LB 274, § 277; Laws 2006, LB 887, § 5; Laws 2011, LB211, § 7.  
Operative date October 1, 2011.

(m) NEBRASKA ADVANTAGE RURAL DEVELOPMENT ACT

**77-27,187.02 Application; 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.

(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 five hundred dollars. 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) The Tax Commissioner shall not approve further applications once the expected credits from the approved projects total two million five hundred thousand dollars in each of fiscal years 2004-05 and 2005-06, three million dollars in each of fiscal years 2006-07 through 2008-09, and four million dollars in fiscal year 2009-10. For applications filed in calendar years 2010 and 2011, the Tax Commissioner shall not approve further applications once the expected credits from the approved projects total four million dollars. For applications filed in calendar year 2012 and each year thereafter, the Tax Commissioner shall not approve further applications once the expected credits from the approved projects total one 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. It is the intent of the Legislature that all tax credits deemed unallocated for this section for calendar year 2011 shall be used for purposes of the Angel Investment Tax Credit Act.

(c) Applications for benefits shall be considered in the order in which they are received.

(d)(i) For applications filed in calendar year 2011, applications shall be filed by July 1 and shall be complete by August 1 of the calendar year. Any application that is filed after July 1 or that is not complete on August 1 shall be considered to be filed during the following calendar year.

(ii) For applications filed in calendar year 2012 and each year thereafter, 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 con-

tained 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.

Operative date July 1, 2011.

Cross References

Angel Investment Tax Credit Act, see section 77-6301.

(s) RENEWABLE ENERGY TAX CREDIT

**77-27,235 Renewable energy tax credit; Department of Revenue; powers.**

(1) Any producer of electricity generated by a new renewable electric generation facility shall earn a renewable energy tax credit. For electricity generated on or after July 14, 2006, and before October 1, 2007, the credit shall be .075 cent for each kilowatt-hour of electricity generated by a new renewable electric generation facility. For electricity generated on or after October 1, 2007, and before January 1, 2010, the credit shall be .1 cent for each kilowatt-hour of electricity generated by a new renewable electric generation facility. For electricity generated on or after January 1, 2010, and before January 1, 2013, the credit shall be .075 cent per kilowatt-hour for electricity generated by a new renewable electric generation facility. For electricity generated on or after January 1, 2013, the credit shall be .05 cent per kilowatt-hour for electricity generated by a new renewable electric generation facility. The credit may be earned for production of electricity for ten years after the date that the facility is placed in operation on or after July 14, 2006.

(2) For purposes of this section:

(a) Electricity generated by a new renewable electric generation facility means electricity that is exclusively produced by a new renewable electric generation facility;

(b) Eligible renewable resources means wind, moving water, solar, geothermal, fuel cell, methane gas, or photovoltaic technology; and

(c) New renewable electric generation facility means an electrical generating facility located in this state that is first placed into service on or after July 14, 2006, which utilizes eligible renewable resources as its fuel source.

(3) The credit allowed under this section may be used to reduce the producer's Nebraska income tax liability or to obtain a refund of state sales and use taxes paid by the producer of electricity generated by a new renewable electric



generation facility. A claim to use the credit for refund of the state sales and use taxes paid, either directly or indirectly, by the producer may be filed quarterly for electricity generated during the previous quarter by the twentieth day of the month following the end of the calendar quarter. The credit may be used to obtain a refund of state sales and use taxes paid during the quarter immediately preceding the quarter in which the claim for refund is made, except that the amount refunded under this subsection shall not exceed the amount of the state sales and use taxes paid during the quarter.

(4) The Department of Revenue may adopt and promulgate rules and regulations to permit verification of the validity and timeliness of any renewable energy tax credit claimed.

(5) The total amount of renewable energy tax credits that may be used by all taxpayers shall be limited to fifty thousand dollars without further authorization from the Legislature.

(6) The credit allowed under this section may not be claimed by a producer who received a sales tax exemption under section 77-2704.57 for the new renewable electric generation facility.

**Source:** Laws 2006, LB 872, § 2; Laws 2007, LB367, § 24; Laws 2011, LB360, § 3.

Operative date October 1, 2011.

#### ARTICLE 34

### POLITICAL SUBDIVISIONS, BUDGET LIMITATIONS

#### (d) LIMITATION ON PROPERTY TAXES

Section

77-3442. Property tax levies; maximum levy; exceptions.

#### (e) BASE LIMITATION

77-3446. Base limitation, defined.

#### (d) LIMITATION ON PROPERTY TAXES

##### **77-3442 Property tax levies; maximum levy; exceptions.**

(1) Property tax levies for the support of local governments for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this section except as provided in section 77-3444.

(2)(a) Except as provided in subdivision (2)(e) of this section, school districts and multiple-district school systems, except learning communities and school districts that are members of learning communities, 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, 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, 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 levies pursuant to subdivisions (2)(b) and (2)(g) of this section for such learning community.

(d) Excluded from the limitations in subdivisions (2)(a) and (2)(c) of this section are amounts levied to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment and 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 school fiscal year 2002-03 through school fiscal year 2007-08, school districts and multiple-district school systems may, upon a three-fourths majority vote of the school board of the school district, the board of the unified system, or the school board of the high school district of the multiple-district school system that is not a unified system, exceed the maximum levy prescribed by subdivision (2)(a) of this section in an amount equal to the net difference between the amount of state aid that would have been provided under the Tax Equity and Educational Opportunities Support Act without the temporary aid adjustment factor as defined in section 79-1003 for the ensuing school fiscal year for the school district or multiple-district school system and the amount provided with the temporary aid adjustment factor. The State Department of Education shall certify to the school districts and multiple-district school systems the amount by which the maximum levy may be exceeded for the next school fiscal year pursuant to this subdivision (f) of this subsection on or before February 15 for school fiscal years 2004-05 through 2007-08.

(g) For each fiscal year, learning communities may levy a maximum levy of two cents on each one hundred dollars of taxable property subject to the levy for special building funds for member school districts. The proceeds from the levy pursuant to this subdivision shall be distributed pursuant to section 79-1073.01.

(h) For each fiscal year, learning communities may levy a maximum levy of two cents 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.

(i) For each fiscal year, learning communities may levy a maximum levy of one cent on each one hundred dollars of taxable property subject to the levy 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)(a) For fiscal years prior to fiscal year 2010-11, community colleges may levy a maximum levy calculated pursuant to the Community College Foundation and Equalization Aid Act on each one hundred dollars of taxable property subject to the levy.

(b) For fiscal year 2010-11, in lieu of the calculation of a maximum levy for operating expenditures pursuant to the Community College Foundation and Equalization Aid Act, and for fiscal year 2011-12 and each fiscal year thereafter, community colleges may levy a maximum of ten and one-quarter cents per one hundred dollars of taxable valuation of property subject to the levy for operating expenditures and may also levy the additional levies provided in subsections (2) and (3) of section 85-1517.

(4)(a) Natural resources districts may levy a maximum levy of four and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) Natural resources districts shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2003-04, not to exceed one cent on each one hundred dollars of taxable valuation annually on all of the taxable property within the district.

(c) In addition, natural resources districts located in a river basin, subbasin, or reach that has been determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713 by the Department of Natural Resources shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2005-06, not to exceed three cents on each one hundred dollars of taxable valuation on all of the taxable property within the district for fiscal year 2006-07 and each fiscal year thereafter through fiscal year 2017-18.

(5) Any educational service unit authorized to levy a property tax pursuant to section 79-1225 may levy a maximum levy of one and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(6)(a) Incorporated cities and villages which are not within the boundaries of a municipal county may levy a maximum levy of forty-five cents per one hundred dollars of taxable valuation of property subject to the levy plus an additional five cents per one hundred dollars of taxable valuation to provide financing for the municipality's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201, museum pursuant to section 51-501, visiting community nurse, home health nurse, or home health

agency pursuant to section 71-1637, or statue, memorial, or monument pursuant to section 80-202.

(b) Incorporated cities and villages which are within the boundaries of a municipal county may levy a maximum levy of ninety cents per one hundred dollars of taxable valuation of property subject to the levy. The maximum levy shall include amounts paid to a municipal county for county services, amounts levied to pay for sums to support a library pursuant to section 51-201, a museum pursuant to section 51-501, a visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or a statue, memorial, or monument pursuant to section 80-202.

(7) Sanitary and improvement districts which have been in existence for more than five years may levy a maximum levy of forty cents per one hundred dollars of taxable valuation of property subject to the levy, and sanitary and improvement districts which have been in existence for five years or less shall not have a maximum levy. Unconsolidated sanitary and improvement districts which have been in existence for more than five years and are located in a municipal county may levy a maximum of eighty-five cents per hundred dollars of taxable valuation of property subject to the levy.

(8) Counties may levy or authorize a maximum levy of fifty cents per one hundred dollars of taxable valuation of property subject to the levy, except that five cents per one hundred dollars of taxable valuation of property subject to the levy may only be levied to provide financing for the county's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201 or museum pursuant to section 51-501. The county may allocate up to fifteen cents of its authority to other political subdivisions subject to allocation of property tax authority under subsection (1) of section 77-3443 and not specifically covered in this section to levy taxes as authorized by law which do not collectively exceed fifteen cents per one hundred dollars of taxable valuation on any parcel or item of taxable property. The county may allocate to one or more other political subdivisions subject to allocation of property tax authority by the county under subsection (1) of section 77-3443 some or all of the county's five cents per one hundred dollars of valuation authorized for support of an agreement or agreements to be levied by the political subdivision for the purpose of supporting that political subdivision's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. If an allocation by a county would cause another county to exceed its levy authority under this section, the second county may exceed the levy authority in order to levy the amount allocated. Property tax levies for costs of reassumption of the assessment function pursuant to section 77-1340 or 77-1340.04 are not included in the levy limits established in this subsection for fiscal years 2010-11 through 2013-14.

(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) Property tax levies (a) for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a political subdivision which require or obligate a political subdivision to pay such judgment, to the

extent such judgment is not paid by liability insurance coverage of a political subdivision, (b) for preexisting lease-purchase contracts approved prior to July 1, 1998, (c) for bonds as defined in section 10-134 approved according to law and secured by a levy on property except as provided in section 44-4317 for bonded indebtedness issued by educational service units and school districts, and (d) for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this section.

(11) 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.

(12) 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.

(13) For purposes of sections 77-3442 to 77-3444, political subdivision means a political subdivision of this state and a county agricultural society.

(14) 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.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB59, section 2, with LB400, section 2, to reflect all amendments.

**Note:** Changes made by LB59 became effective February 23, 2011. Changes made by LB400 became effective August 27, 2011.

#### Cross References

**Community College Foundation and Equalization Aid Act**, see section 85-2201.

**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.

**Tax Equity and Educational Opportunities Support Act**, see section 79-1001.

## (e) BASE LIMITATION

**77-3446 Base limitation, defined.**

Base limitation means the budget limitation rate applicable to school districts and the limitation on growth of restricted funds applicable to other political subdivisions prior to any increases in the rate as a result of special actions taken by a supermajority of any governing board or of any exception allowed by law. The base limitation is two and one-half percent until adjusted, except that the base limitation for school districts for school fiscal year 2010-11 is twenty-five hundredths of one percent, the base limitation for school districts for school fiscal year 2011-12 is zero percent, and the base limitation for school districts for school fiscal year 2012-13 is one-half of one percent. The base limitation may be adjusted annually by the Legislature to reflect changes in the prices of services and products used by school districts and political subdivisions.

**Source:** Laws 1998, LB 989, § 15; Laws 2001, LB 365, § 1; Laws 2003, LB 540, § 3; Laws 2009, LB545, § 2; Laws 2009, First Spec. Sess., LB5, § 1; Laws 2011, LB235, § 1.  
Effective date April 27, 2011.

**ARTICLE 35****HOMESTEAD EXEMPTION**

Section

77-3519. Homestead; exemption; county assessor; rejection; applicant; complaint; contents; hearing; appeal.

**77-3519 Homestead; exemption; county assessor; rejection; applicant; complaint; contents; hearing; appeal.**

In any case when the county assessor rejects an application for homestead exemption, such applicant may obtain a hearing before the county board of equalization by filing a written complaint with the county clerk within thirty days from receipt of the notice from the county assessor showing such rejection. Such complaint shall specify his or her grievances and the pertinent facts in relation thereto, in ordinary and concise language and without repetition, and in such manner as to enable a person of common understanding to know what is intended. The board may take evidence pertinent to such complaint, and for that purpose may compel the attendance of witnesses and the production of books, records, and papers by subpoena. The board shall issue its decision on the complaint within thirty days after the filing of the complaint. Notice of the board's decision shall be mailed by the county clerk to the applicant within seven days after the decision. The taxpayer shall have the right to appeal from the board's decision with reference to the application for homestead exemption to the Tax Equalization and Review Commission in accordance with section 77-5013 within thirty days after the decision.

**Source:** Laws 1979, LB 65, § 19; Laws 1987, LB 376A, § 14; Laws 1995, LB 490, § 177; Laws 2004, LB 973, § 44; Laws 2011, LB384, § 19.  
Operative date August 27, 2011.

## ARTICLE 50

## TAX EQUALIZATION AND REVIEW COMMISSION ACT

Section	
77-5001.	Act, how cited.
77-5003.	Tax Equalization and Review Commission; created; commissioners; term; salary.
77-5004.	Commissioner; qualifications; conflict of interests; continuing education; expenses.
77-5005.	Commission; meetings; quorum; orders.
77-5007.	Commission; powers and duties.
77-5008.	Commission; writs of mandamus; costs.
77-5015.	Appeals; hearing; notice.
77-5015.01.	Appeal; petition; commission; powers; other parties; service.
77-5015.02.	Single commissioner hearing; evidence; record; rehearing.
77-5016.	Hearing or proceeding; commission; powers and duties; false statement; penalty; costs.
77-5017.	Appeals or petitions; orders authorized.
77-5018.	Appeals; decisions and orders; requirements; publication on web site; correction of errors.
77-5019.	Appeals; judicial review; procedure.
77-5022.	Commission; annual meeting; powers and duties.
77-5024.01.	Notice; contents.
77-5027.	Commission; change valuation; Property Tax Administrator; duties.

**77-5001 Act, how cited.**

Sections 77-5001 to 77-5031 shall be known and may be cited as the Tax Equalization and Review Commission Act.

**Source:** Laws 1995, LB 490, § 1; Laws 1997, LB 270, § 100; Laws 1997, LB 397, § 34; Laws 1998, LB 1104, § 23; Laws 2003, LB 291, § 4; Laws 2004, LB 973, § 46; Laws 2011, LB384, § 20.  
Operative date July 1, 2011.

**77-5003 Tax Equalization and Review Commission; created; commissioners; term; salary.**

(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. Prior to July 1, 2011, the commission shall have four commissioners, one commissioner from each congressional district and one at-large commissioner. On July 1, 2011, the term of each commissioner shall expire, and thereafter the commission shall have three commissioners, one from each congressional district, 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. The salaries of the commissioners shall be fixed by the Governor.

(2) The term of the commissioner from district 1 expires January 1, 2016, the term of the commissioner from district 2 expires January 1, 2018, and the term of the commissioner from district 3 expires January 1, 2014. 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.  
Operative date July 1, 2011.

**77-5004 Commissioner; qualifications; conflict of interests; continuing education; expenses.**

(1) Each commissioner shall be a qualified voter and resident of the state and a domiciliary of the district he or she represents.

(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 one commissioner 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.

(5) No commissioner or employee of the commission shall hold any position of profit or engage in any occupation or business interfering with or inconsis-



tent 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 their actual and necessary expenses in the performance of their official duties pursuant to the Tax Equalization and Review Commission Act.

**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.

Operative date July 1, 2011.

**77-5005 Commission; meetings; quorum; orders.**

(1) Within ten days after appointment, the commissioners shall meet at their office in Lincoln, Nebraska, and enter upon the duties of their office.

(2) A majority of the commission shall at all times constitute a quorum to transact business, and one vacancy shall not impair the right of the remaining commissioners to exercise all the powers of the commission.

(3) Any investigation, inquiry, or hearing held or undertaken by the commission may be held or undertaken by a single commissioner in those appeals designated for hearing pursuant to section 77-5015.02.

(4) All investigations, inquiries, hearings, and decisions of a single commissioner and every order made by a single commissioner shall be deemed to be the order of the commission, except as provided in subsection (6) of section 77-5015.02. The full commission, on an application made within thirty days after the date of an order, may grant a rehearing and determine de novo any decisions of or orders made by the commission. The commission, on an application made within thirty days after the date of an order issued after a hearing by a single commissioner, except for an order dismissing an appeal or petition for failure of the appellant or petitioner to appear at a hearing on the merits, shall grant a rehearing on the merits before the commission. The thirty-day filing period for appeals under subsection (2) of section 77-5019 shall be tolled while a motion for rehearing is pending.

(5) All hearings or proceedings of the commission shall be open to the public.

(6) The Open Meetings Act applies only to hearings or proceedings of the commission held pursuant to the rulemaking authority of the commission.

**Source:** Laws 1995, LB 490, § 5; Laws 1998, LB 1104, § 25; Laws 2001, LB 465, § 5; Laws 2003, LB 291, § 6; Laws 2004, LB 821, § 23; Laws 2005, LB 15, § 7; Laws 2011, LB384, § 23.  
Operative date July 1, 2011.

**Cross References**

**Open Meetings Act**, see section 84-1407.

**77-5007 Commission; powers and duties.**

The commission has the power and duty to hear and determine appeals of:

(1) Decisions of any county board of equalization equalizing the value of individual tracts, lots, or parcels of real property so that all real property is assessed uniformly and proportionately;

(2) Decisions of any county board of equalization granting or denying tax-exempt status for real or personal property or an exemption from motor vehicle taxes and fees;

(3) Decisions of the Tax Commissioner determining the taxable property of a railroad company, car company, public service entity, or air carrier within the state;

(4) Decisions of the Tax Commissioner determining adjusted valuation pursuant to section 79-1016;

(5) Decisions of any county board of equalization on the valuation of personal property or any penalties imposed under sections 77-1233.04 and 77-1233.06;

(6) Decisions of any county board of equalization on claims that a levy is or is not for an unlawful or unnecessary purpose or in excess of the requirements of the county;

(7) Decisions of any county board of equalization granting or rejecting an application for a homestead exemption;

(8) Decisions of the Department of Motor Vehicles determining the taxable value of motor vehicles pursuant to section 60-3,188;

(9) Decisions of the Tax Commissioner made under section 77-1330;

(10) Any other decision of any county board of equalization;

(11) Any other decision of the Tax Commissioner regarding property valuation, exemption, or taxation;

(12) Decisions of the Tax Commissioner pursuant to section 77-3520;

(13) Final decisions of a county board of equalization appealed by the Tax Commissioner or Property Tax Administrator pursuant to section 77-701; and

(14) Any other decision, determination, action, or order from which an appeal to the commission is authorized.

The commission has the power and duty to hear and grant or deny relief on petitions.

**Source:** Laws 1995, LB 490, § 7; Laws 1996, LB 1038, § 3; Laws 1997, LB 270, § 102; Laws 1997, LB 397, § 35; Laws 1998, LB 306, § 40; Laws 1999, LB 140, § 2; Laws 1999, LB 194, § 33; Laws

2001, LB 170, § 20; Laws 2004, LB 973, § 48; Laws 2005, LB 15, § 8; Laws 2005, LB 261, § 8; Laws 2005, LB 274, § 280; Laws 2007, LB334, § 96; Laws 2010, LB877, § 7; Laws 2011, LB384, § 24.

Operative date August 27, 2011.

**77-5008 Commission; writs of mandamus; costs.**

In addition to its other powers and duties, the commission may issue writs of mandamus compelling compliance with its orders and compelling the Tax Commissioner to enforce its orders and may charge the party which has not complied with the commission's orders with costs borne by the Tax Commissioner.

**Source:** Laws 1995, LB 490, § 8; Laws 2007, LB334, § 97; Laws 2011, LB384, § 25.

Operative date August 27, 2011.

**77-5015 Appeals; hearing; notice.**

In any case appealed to the commission all parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall state the time and place of the hearing. Opportunity shall be afforded all parties to present evidence and argument. The commission shall prepare an official record, which includes testimony and exhibits, in each case, but it shall not be necessary to transcribe the record of the proceedings unless requested for purposes of rehearing, in which event the transcript and record shall be furnished by the commission upon request and tender of the cost of preparation. Informal disposition may also be made of any case by stipulation, agreed settlement, consent order, or default.

**Source:** Laws 1995, LB 490, § 15; Laws 1999, LB 140, § 3; Laws 2003, LB 291, § 8; Laws 2004, LB 973, § 50; Laws 2011, LB384, § 26.

Operative date August 27, 2011.

**77-5015.01 Appeal; petition; commission; powers; other parties; service.**

The commission may determine an appeal or petition before it when it can be done without prejudice to the rights of others or by saving such rights; but when a determination of the appeal or petition cannot be had without the presence of other parties, the commission shall serve such other parties with notice of the proceeding.

**Source:** Laws 2011, LB384, § 27.

Operative date July 1, 2011.

**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 one 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.

Operative date July 1, 2011.

**77-5016 Hearing or proceeding; commission; powers and duties; false statement; penalty; costs.**

Any hearing or proceeding of the commission shall be conducted as an informal hearing unless a formal hearing is granted as determined by the commission according to its rules and regulations. In any hearing or proceeding heard by the commission:

(1) The commission may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs excluding incompetent, irrelevant, immaterial, and unduly repetitious evidence and shall give effect to the privilege rules of evidence in sections 27-501 to 27-513 but shall not otherwise be bound by the usual common-law or statutory rules of evidence except during a formal hearing. Any party to an appeal filed under section 77-5007 may request a formal hearing by delivering a written request to the commission not more than thirty days after the appeal is filed. The requesting party shall be liable for the payment of fees and costs of a court reporter pending a final decision. The commission shall be bound by the rules of evidence applicable in district court in any formal hearing held by the commission. Fees and costs of a court reporter shall be paid by the party or parties against whom a final decision is rendered, and all other costs shall be allocated as the commission may determine;

(2) The commission may administer oaths, issue subpoenas, and compel the attendance of witnesses and the production of any papers, books, accounts, documents, statistical analysis, and testimony. The commission may adopt and promulgate necessary rules for discovery which are consistent with the rules adopted by the Supreme Court pursuant to section 25-1273.01;

(3) The commission may consider and utilize the provisions of the Constitution of the United States, the Constitution of Nebraska, the laws of the United

States, the laws of Nebraska, the Code of Federal Regulations, the Nebraska Administrative Code, any decision of the several courts of the United States or the State of Nebraska, and the legislative history of any law, rule, or regulation, without making the document a part of the record. The commission may without inclusion in the record consider and utilize published treatises, periodicals, and reference works pertaining to the valuation or assessment of real or personal property or the meaning of words and phrases if the document is identified in the commission's rules and regulations;

(4) All evidence, other than that described in subdivision (3) of this section, including records and documents in the possession of the commission of which it desires to avail itself, shall be offered and made a part of the record in the case. No other factual information or evidence other than that set forth in this section shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference;

(5) Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence;

(6) The commission may take notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within its specialized knowledge or statistical information regarding general levels of assessment within a county or a class or subclass of real property within a county and measures of central tendency within such county or classes or subclasses within such county which have been made known to the commission. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material so noticed. They shall be afforded an opportunity to contest the facts so noticed. The commission may utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to it;

(7) Any person testifying under oath at a hearing who knowingly and intentionally makes a false statement to the commission or its designee is guilty of perjury. For the purpose of this section, perjury is a Class I misdemeanor;

(8) The commission may determine any question raised in the proceeding upon which an order, decision, determination, or action appealed from is based. The commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal;

(9) In all appeals, excepting those arising under section 77-1606, if the appellant presents no evidence to show that the order, decision, determination, or action appealed from is incorrect, the commission shall deny the appeal. If the appellant presents any evidence to show that the order, decision, determination, or action appealed from is incorrect, such order, decision, determination, or action shall be affirmed unless evidence is adduced establishing that the order, decision, determination, or action was unreasonable or arbitrary;

(10) If the appeal concerns a decision by the county board of equalization that property is, in whole or in part, exempt from taxation, the decision to be rendered by the commission shall only determine the exemption status of the property. The decision shall not determine the taxable value of the property unless stipulated by the parties according to subsection (2) of section 77-5017;

(11) If the appeal concerns a decision by the county board of equalization that property owned by the state or a political subdivision is or is not exempt and there has been no final determination of the value of the property, the

decision to be rendered by the commission shall only determine the exemption status of the property. The decision shall not determine the taxable value of the property unless stipulated by the parties according to subsection (2) of section 77-5017;

(12) The costs of any appeal, including the costs of witnesses, may be taxed by the commission as it deems just, except costs payable by the appellant pursuant to section 77-1510.01, unless (a) the appellant is the county assessor or county clerk in which case the costs shall be paid by the county or (b) the appellant is the Tax Commissioner or Property Tax Administrator in which case the costs shall be paid by the state;

(13) The commission shall deny relief to the appellant or petitioner in any hearing or proceeding unless a majority of the commissioners present determine that the relief should be granted; and

(14) Subdivisions (3), (6), (8), (9), (10), (11), and (12) of this section apply to hearings or proceedings before a single commissioner pursuant to section 77-5015.02.

**Source:** Laws 1995, LB 490, § 16; Laws 1997, LB 397, § 38; Laws 1999, LB 140, § 4; Laws 2000, LB 968, § 75; Laws 2001, LB 170, § 22; Laws 2001, LB 419, § 1; Laws 2001, LB 465, § 7; Laws 2002, LB 994, § 29; Laws 2003, LB 291, § 9; Laws 2004, LB 973, § 51; Laws 2005, LB 15, § 9; Laws 2007, LB167, § 6; Laws 2010, LB877, § 9; Laws 2011, LB384, § 29.

Operative date July 1, 2011.

#### **77-5017 Appeals or petitions; orders authorized.**

(1) In resolving an appeal or petition, the commission may make such orders as are appropriate for resolving the dispute but in no case shall the relief be excessive compared to the problems addressed. The commission may make prospective orders requiring changes in assessment practices which will improve assessment practices or affect the general level of assessment or the measures of central tendency in a positive way. If no other relief is adequate to resolve disputes, the commission may order a reappraisal of property within a county, an area within a county, or classes or subclasses of property within a county.

(2) In an appeal specified in subdivision (10) or (11) of section 77-5016 for which the commission determines exempt property to be taxable, the commission shall order the county board of equalization to determine the taxable value of the property, unless the parties stipulate to such taxable value during the hearing before the commission. The order shall require the county board of equalization to determine the taxable value of the property pursuant to section 77-1507, send notice of the taxable value pursuant to section 77-1507 within ninety days after the date the commission's order is certified pursuant to section 77-5018, and apply interest at the rate specified in section 45-104.01, but not penalty, to the taxable value as of the date the commission's order was issued or the date the taxes were delinquent, whichever is later.

(3) A determination of the taxable value of the property made by the county board of equalization pursuant to subsection (2) of this section may be appealed

to the commission within thirty days after the board's decision as provided in section 77-1507.

**Source:** Laws 1995, LB 490, § 17; Laws 2001, LB 419, § 2; Laws 2004, LB 973, § 61; Laws 2007, LB167, § 7; Laws 2011, LB384, § 30.  
Operative date July 1, 2011.

**77-5018 Appeals; decisions and orders; requirements; publication on web site; correction of errors.**

(1) The commission may issue decisions and orders which are supported by the evidence and appropriate for resolving the matters in dispute. Every final decision and order adverse to a party to the proceeding, rendered by the commission in a case appealed to the commission, shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the conclusions upon each contested issue of fact. Parties to the proceeding shall be notified of the decision and order in person or by mail. A copy of the decision and order shall be delivered or mailed to each party or his or her attorney of record. Within seven days of issuing a decision and order, the commission shall electronically publish such decision and order on a web site maintained by the commission that is accessible to the general public. The full text of final decisions and orders shall be published on the web site, except that final decisions and orders that are entered (a) on a dismissal by the appellant or petitioner, (b) on a default order when the appellant or petitioner failed to appear, (c) by agreement of the parties, or (d) by a single commissioner pursuant to section 77-5015.02 may be published on the web site in a summary manner identifying the parties, the case number, and the basis for the final decision and order. Any decision rendered by the commission shall be certified to the county treasurer and to the officer charged with the duty of preparing the tax list, and if and when such decision becomes final, such officers shall correct their records accordingly and the tax list pursuant to section 77-1613.02.

(2) The commission may, on its own motion, modify or change its findings or orders, at any time before an appeal and within ten days after the date of such findings or orders, for the purpose of correcting any ambiguity, clerical error, or patent or obvious error. The time for appeal shall not be lengthened because of the correction unless the correction substantially changes the findings or order.

(3) The Tax Commissioner or the Property Tax Administrator shall have thirty days after a final decision of the commission to appeal the commission's decision pursuant to section 77-5019.

**Source:** Laws 1995, LB 490, § 18; Laws 1997, LB 397, § 39; Laws 2001, LB 465, § 8; Laws 2005, LB 15, § 10; Laws 2007, LB166, § 11; Laws 2010, LB877, § 10; Laws 2011, LB384, § 31.  
Operative date July 1, 2011.

**77-5019 Appeals; judicial review; procedure.**

(1) Any party aggrieved by a final decision in a case appealed to the commission, any party aggrieved by a final decision of the commission on a petition, any party aggrieved by an order of the commission issued pursuant to section 77-5020 or sections 77-5023 to 77-5028, or any party aggrieved by a final decision of the commission appealed by the Tax Commissioner or the

Property Tax Administrator pursuant to section 77-701 shall be entitled to judicial review in the Court of Appeals. Upon request of the county, the Attorney General may appear and represent the county or political subdivision in cases in which the commission is not a party. Nothing in this section shall be deemed to prevent resort to other means of review, redress, or relief provided by law.

(2)(a) Proceedings for review shall be instituted by filing a petition and the appropriate docket fees in the Court of Appeals:

(i) Within thirty days after the date on which a final appealable order is entered by the commission; or

(ii) For orders issued pursuant to section 77-5028, within thirty days after May 15 or thirty days after the date ordered pursuant to section 77-1514, whichever is later.

(b) All parties of record shall be made parties to the proceedings for review. The commission shall only be made a party of record if the action complained of is an order issued by the commission pursuant to section 77-1504.01 or 77-5020 or sections 77-5023 to 77-5028. Summons shall be served on all parties within thirty days after the filing of the petition in the manner provided for service of a summons in a civil action. The court, in its discretion, may permit other interested persons to intervene. No bond or undertaking is required for an appeal to the Court of Appeals.

(c) A petition for review shall set forth: (i) The name and mailing address of the petitioner; (ii) the name and mailing address of the county whose action is at issue or the commission; (iii) identification of the final decision at issue together with a duplicate copy of the final decision; (iv) the identification of the parties in the case that led to the final decision; (v) the facts to demonstrate proper venue; (vi) the petitioner's reasons for believing that relief should be granted; and (vii) a request for relief, specifying the type and extent of the relief requested.

(3) The filing of the petition or the service of summons upon the commission shall not stay enforcement of a decision. The commission may order a stay. The court may order a stay after notice of the application for the stay to the commission and to all parties of record. The court may require the party requesting the stay to give bond in such amount and conditioned as the court directs.

(4) Upon receipt of a petition the date for submission of the official record shall be determined by the court. The commission shall prepare a certified copy of the official record of the proceedings had before the commission in the case. The official record shall include: (a) Notice of all proceedings; (b) any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the commission pertaining to the case; (c) the transcribed record of the hearing before the commission, including all exhibits and evidence introduced during the hearing, a statement of matters officially noticed by the commission during the proceeding, and all proffers of proof and objections and rulings thereon; and (d) the final order appealed from. The official record in an appeal of a commission decision issued pursuant to sections 77-5023 to 77-5028 may be limited by the request of a petitioner to those parts of the record pertaining to a specific county. The commission shall charge the petitioner with the reasonable direct cost or require the petitioner to pay the cost for preparing the official record for transmittal to the court in all



cases except when the petitioner is not required to pay a filing fee. If payment is required, payment of the cost, as estimated by the commission, for preparation of the official record shall be paid to the commission prior to preparation of the official record and the commission shall not transmit the official record to the court until payment of the actual costs of its preparation is received.

(5) The review shall be conducted by the court for error on the record of the commission. If the court determines that the interest of justice would be served by the resolution of any other issue not raised before the commission, the court may remand the case to the commission for further proceedings. The court may affirm, reverse, or modify the decision of the commission or remand the case for further proceedings.

(6) Appeals under this section shall be given precedence over all civil cases.

**Source:** Laws 1995, LB 490, § 19; Laws 1997, LB 165, § 4; Laws 1999, LB 140, § 5; Laws 2000, LB 968, § 76; Laws 2001, LB 465, § 9; Laws 2005, LB 15, § 11; Laws 2006, LB 808, § 42; Laws 2008, LB965, § 21; Laws 2010, LB877, § 11; Laws 2011, LB384, § 32.  
Operative date May 12, 2011.

**77-5022 Commission; annual meeting; powers and duties.**

The commission shall annually equalize the assessed value or special value of all real property as submitted by the county assessors on the abstracts of assessments and equalize the values of real property that is valued by the state. The commission shall have the power to recess from time to time until the equalization process is complete. Meetings held pursuant to this section may be held by means of videoconference or telephone conference.

**Source:** Laws 1903, c. 73, § 130, p. 434; R.S.1913, § 6447; Laws 1921, c. 133, art. XI, § 4, p. 591; C.S.1922, § 5901; C.S.1929, § 77-1004; Laws 1933, c. 129, § 1, p. 505; C.S.Supp.,1941, § 77-1004; R.S. 1943, § 77-505; Laws 1969, c. 653, § 1, p. 2569; Laws 1987, LB 508, § 18; Laws 1992, LB 1063, § 57; Laws 1992, Second Spec. Sess., LB 1, § 55; R.S.1943, (1996), § 77-505; Laws 1997, LB 397, § 40; Laws 1999, LB 140, § 6; Laws 2003, LB 291, § 12; Laws 2004, LB 973, § 63; Laws 2006, LB 808, § 43; Laws 2009, LB166, § 19; Laws 2011, LB384, § 33.  
Operative date May 12, 2011.

**77-5024.01 Notice; contents.**

The commission shall give notice of the time and place of the first meeting held pursuant to sections 77-5022 to 77-5028 by publication in a newspaper of general circulation in the State of Nebraska. Such notice shall contain a statement that the agenda shall be readily available for public inspection at the principal office of the commission during normal business hours. The agenda shall be continually revised to remain current. The commission may thereafter modify the agenda and need only provide notice of the meeting to the affected counties in the manner provided in section 77-5026. The commission shall publish in its notice a list of those counties certified under section 77-5027 as having assessments which may fail to satisfy the requirements of law. The notice shall also contain a statement advising that any petition brought by a county board of equalization pursuant to section 77-1504.01 to adjust the value of a class or subclass of real property will be heard between July 26 and August

10 at a date, time, and place as provided in the agenda maintained by the commission.

**Source:** Laws 2003, LB 291, § 11; Laws 2005, LB 261, § 9; Laws 2011, LB384, § 34.

Operative date August 27, 2011.

**77-5027 Commission; change valuation; Property Tax Administrator; duties.**

(1) The commission shall, pursuant to section 77-5026, raise or lower the valuation of any class or subclass of real property in a county when it is necessary to achieve equalization.

(2) On or before nineteen days following the final filing due date for the abstract of assessment for real property pursuant to section 77-1514, the Property Tax Administrator shall prepare and deliver to the commission and to each county assessor his or her annual reports and opinions. Beginning January 1, 2014, for any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the reports or opinions shall be prepared and delivered on or before fifteen days following such final filing due date.

(3) The annual reports and opinions of the Property Tax Administrator shall contain statistical and narrative reports informing the commission of the level of value and the quality of assessment of the classes and subclasses of real property within the county and a certification of the opinion of the Property Tax Administrator regarding the level of value and quality of assessment of the classes and subclasses of real property in the county.

(4) In addition to an opinion of level of value and quality of assessment in the county, the Property Tax Administrator may make nonbinding recommendations for consideration by the commission.

(5) The Property Tax Administrator shall employ the methods specified in section 77-112, the comprehensive assessment ratio study specified in section 77-1327, other statistical studies, and an analysis of the assessment practices employed by the county assessor. If necessary to determine the level of value and quality of assessment in a county, the Property Tax Administrator may use sales of comparable real property in market areas similar to the county or area in question or from another county as indicators of the level of value and the quality of assessment in a county. The Property Tax Administrator may use any other relevant information in providing the annual reports and opinions to the commission.

**Source:** Laws 1969, c. 628, § 1, p. 2528; Laws 1987, LB 508, § 22; Laws 1988, LB 1207, § 1; Laws 1989, LB 361, § 6; Laws 1995, LB 490, § 57; Laws 1997, LB 342, § 2; R.S.1943, (1996), § 77-508.01; Laws 1997, LB 397, § 45; Laws 2001, LB 170, § 26; Laws 2004, LB 973, § 65; Laws 2005, LB 263, § 15; Laws 2011, LB384, § 35.  
Operative date August 27, 2011.

**ARTICLE 56**

**TAX AMNESTY PROGRAM**

Section

77-5601. Tax amnesty program; application; department; powers and duties; Department of Revenue Enforcement Fund; Department of Revenue Enforcement Technology Fund; created; investment.

**77-5601 Tax amnesty program; application; department; powers and duties; Department of Revenue Enforcement Fund; Department of Revenue Enforcement Technology Fund; created; investment.**

(1) From August 1, 2004, through October 31, 2004, there shall be conducted a tax amnesty program with regard to taxes due and owing that have not been reported to the Department of Revenue. Any person applying for tax amnesty shall pay all unreported taxes that were due on or before April 1, 2004. Any person that applies for tax amnesty and is accepted by the Tax Commissioner shall have any penalties and interest waived on unreported and delinquent taxes notwithstanding any other provisions of law to the contrary.

(2) To be eligible for the tax amnesty provided by this section, the person shall apply for amnesty within the amnesty period, file a return for each taxable period for which the amnesty is requested by December 31, 2004, if no return has been filed, and pay in full all taxes for which amnesty is sought with the return or within thirty days after the application if a return was filed prior to the amnesty period. Tax amnesty shall not be available for any person that is under civil or criminal audit, investigation, or prosecution for unreported or delinquent taxes by this state or the United States Government on or before April 16, 2004.

(3) The department shall not seek civil or criminal prosecution against any person for any taxable period for which amnesty has been granted. The Tax Commissioner shall develop forms for applying for the tax amnesty program, develop procedures for qualification for tax amnesty, and conduct a public awareness campaign publicizing the program.

(4) If a person elects to participate in the amnesty program, the election shall constitute an express and irrevocable relinquishment of all administrative and judicial rights to challenge the imposition of the tax or its amount. Nothing in this section shall prohibit the department from adjusting a return as a result of any state or federal audit.

(5)(a) Except for any local option sales tax collected and returned to the appropriate municipality and any motor vehicle fuel, diesel fuel, and compressed fuel taxes, which shall be deposited in the Highway Trust Fund or Highway Allocation Fund as provided by law, no less than eighty percent of all revenue received pursuant to the tax amnesty program shall be deposited in the General Fund; ten percent, not to exceed five hundred thousand dollars, shall be deposited in the Department of Revenue Enforcement Fund; and ten percent, not to exceed five hundred thousand dollars, shall be deposited in the Department of Revenue Enforcement Technology Fund. Any amount that would otherwise be deposited in the Department of Revenue Enforcement Fund or the Department of Revenue Enforcement Technology Fund that is in excess of the five-hundred-thousand-dollar limitation shall be deposited in the General Fund.

(b) For fiscal year 2005-06, all proceeds in the Department of Revenue Enforcement Fund shall be appropriated to the department for purposes of employing investigators, agents, and auditors and otherwise increasing personnel for enforcement of the Nebraska Revenue Act of 1967. For fiscal year 2005-06, all proceeds in the Department of Revenue Enforcement Technology Fund shall be appropriated to the department for the purposes of acquiring lists, software, programming, computer equipment, and other technological methods for enforcing the act.

(c) For fiscal years after fiscal year 2005-06, twenty percent of all proceeds received during the previous calendar year due to the efforts of auditors and investigators hired pursuant to subdivision (5)(b) of this section, not to exceed seven hundred fifty thousand dollars, shall be deposited in the Department of Revenue Enforcement Fund for purposes of employing investigators and auditors or continuing such employment for purposes of increasing enforcement of the act.

(d) Ten percent of all proceeds received during each calendar year due to the contracts entered into pursuant to section 77-367 shall be deposited in the Department of Revenue Enforcement Fund for purposes of identifying nonfilers of returns, underreporters, nonpayers of taxes, and improper or fraudulent payments.

(6)(a) The department shall prepare a report by April 1, 2005, and by February 1 of each year thereafter detailing the results of the tax amnesty program and the subsequent enforcement efforts. For the report due April 1, 2005, the report shall include (i) the amount of revenue obtained as a result of the tax amnesty program broken down by tax program, (ii) the amount obtained from in-state taxpayers and from out-of-state taxpayers, and (iii) the amount obtained from individual taxpayers and from business enterprises.

(b) For reports due in subsequent years, the report shall include (i) the number of personnel hired for purposes of subdivision (5)(b) of this section and their duties, (ii) a description of lists, software, programming, computer equipment, and other technological methods acquired pursuant to such subdivision and the purposes of each, and (iii) the amount of new revenue obtained as a result of the new personnel and acquisitions during the prior calendar year, broken down into the same categories as described in subdivision (6)(a) of this section.

(7) The Department of Revenue Enforcement Fund and the Department of Revenue Enforcement Technology Fund are created. Transfers may be made from the Department of Revenue Enforcement Fund to the General Fund at the direction of the Legislature. The Department of Revenue Enforcement Fund may receive transfers from the Civic and Community Center Financing Fund at the direction of the Legislature for the purpose of administering the Sports Arena Facility Financing Assistance Act. Any money in the Department of Revenue Enforcement Fund and the Department of Revenue Enforcement Technology Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The Department of Revenue Enforcement Technology Fund shall terminate on July 1, 2006. Any unobligated money in the fund at that time shall be deposited in the General Fund.

(8) For purposes of this section, taxes mean any taxes collected by the department, including, but not limited to state and local sales and use taxes, individual and corporate income taxes, financial institutions deposit taxes, motor vehicle fuel, diesel fuel, and compressed fuel taxes, cigarette taxes, transfer taxes, and charitable gaming taxes.

**Source:** Laws 2004, LB 1017, § 23; Laws 2009, First Spec. Sess., LB3, § 58; Laws 2010, LB779, § 18; Laws 2011, LB297, § 10; Laws 2011, LB642, § 2.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB297, section 10, with LB642, section 2, to reflect all amendments.

Note: Changes made by LB642 became effective May 27, 2011. Changes made by LB297 became effective August 27, 2011.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska Revenue Act of 1967, see section 77-2701.

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

Sports Arena Facility Financing Assistance Act, see section 13-3101.

**ARTICLE 62**

**NAMEPLATE CAPACITY TAX**

Section

77-6203. Nameplate capacity tax; annual payment; exemptions; Department of Revenue; duties; owner; file report; interest; penalties.

**77-6203 Nameplate capacity tax; annual payment; exemptions; Department of Revenue; duties; owner; file report; interest; penalties.**

(1) The owner of a wind energy generation facility annually shall pay a nameplate capacity tax equal to the total nameplate capacity of the commissioned wind turbine of the wind energy generation facility multiplied by a tax rate of three thousand five hundred eighteen dollars per megawatt.

(2) No tax shall be imposed on a wind energy generation facility:

(a) Owned or operated by the federal government, the State of Nebraska, a public power district, a public power and irrigation district, an individual municipality, a registered group of municipalities, an electric membership association, or a cooperative; or

(b) That is a customer-generator as defined in section 70-2002.

(3) No tax levied pursuant to this section shall be construed to constitute restricted funds as defined in section 13-518 for the first five years after the wind energy generation facility is commissioned.

(4) The presence of one or more wind energy generation facilities or supporting infrastructure shall not be a factor in the assessment, determination of actual value, or classification under section 77-201 of the real property underlying or adjacent to such facilities or infrastructure.

(5)(a) The Department of Revenue shall collect the tax due under this section.

(b) The tax shall be imposed beginning the first calendar year the wind turbine is commissioned. A wind energy generation facility commissioned prior to July 15, 2010, shall be subject to the tax levied pursuant to sections 77-6201 to 77-6204 on and after January 1, 2010. The amount of property tax on depreciable tangible personal property previously paid on a wind energy generation facility commissioned prior to July 15, 2010, which is greater than the amount that would have been paid pursuant to sections 77-6201 to 77-6204 from the date of commissioning until January 1, 2010, shall be credited against any tax due under Chapter 77, and any amount so credited that is unused in any tax year shall be carried over to subsequent tax years until fully utilized.

(c)(i) The tax for the first calendar year shall be prorated based upon the number of days remaining in the calendar year after the wind turbine is commissioned.

(ii) In the first year in which a wind energy generation facility is taxed or in any year in which additional commissioned nameplate capacity is added to a wind energy generation facility, the taxes on the initial or additional nameplate

capacity shall be prorated for the number of days remaining in the calendar year.

(iii) When a wind turbine is decommissioned or made nonoperational by a change in law or decertification from its status as a certified renewable export facility during a tax year, the taxes shall be prorated for the number of days during which the wind turbine was not decommissioned or was operational.

(iv) When the capacity of a wind turbine to produce electricity is reduced but the wind turbine is not decommissioned, the nameplate capacity of the wind turbine is deemed to be unchanged.

(6)(a) On March 1 of each year, the owner of a wind energy generation facility shall file with the Department of Revenue a report on the nameplate capacity of the facility for the previous year from January 1 through December 31. All taxes shall be due on April 1 and shall be delinquent if not paid on a quarterly basis on April 1 and each quarter thereafter. Delinquent quarterly payments shall draw interest at the rate provided for in section 45-104.02, as such rate may from time to time be adjusted.

(b) The owner of a wind energy generation facility is liable for the taxes under this section with respect to the facility, whether or not the owner of the facility is the owner of the land on which the facility is situated.

(7) Failure to file a report required by subsection (6) of this section, filing such report late, failure to pay taxes due, or underpayment of such taxes shall result in a penalty of five percent of the amount due being imposed for each quarter the report is overdue or the payment is delinquent, except that the penalty shall not exceed ten thousand dollars.

(8) The Department of Revenue shall enforce the provisions of this section. The department shall adopt and promulgate rules and regulations necessary for the implementation and enforcement of this section.

(9) The Department of Revenue shall separately identify the proceeds from the tax imposed by this section and shall pay all such proceeds over to the county treasurer of the county where the wind energy generation facility is located within thirty days after receipt of such proceeds.

**Source:** Laws 2010, LB1048, § 14; Laws 2011, LB360, § 4.  
Operative date January 1, 2010.

## ARTICLE 63

### ANGEL INVESTMENT TAX CREDIT ACT

#### Section

- 77-6301. Act, how cited.
- 77-6302. Terms, defined.
- 77-6303. Qualified small business; certification; application; form; director; duties; qualification; eligibility for tax credits.
- 77-6304. Pass-through entity; certification as qualified fund; application; form; director; duties; qualification; eligibility for tax credits.
- 77-6305. Individual, trust, or pass-through entity; certification; application; form; director; duties; qualification; eligibility for tax credits.
- 77-6306. Tax credit; amount; director; allocation; limitation; reallocation; when; notice to director; tax credit certificates issued; holding period.
- 77-6307. Annual report; contents; failure to file; fine; final report; when required.
- 77-6308. Tax credit recaptured; when; director; powers and duties.
- 77-6309. Department of Economic Development; report; contents.
- 77-6310. Rules and regulations.

**77-6301 Act, how cited.**

Sections 77-6301 to 77-6310 shall be known and may be cited as the Angel Investment Tax Credit Act.

**Source:** Laws 2011, LB389, § 1.  
Operative date September 1, 2011.

**77-6302 Terms, defined.**

For purposes of the Angel Investment Tax Credit Act:

- (1) Director means the Director of Economic Development;
- (2) Distressed area means a municipality, a county with a population of fewer than one hundred thousand inhabitants according to the most recent federal decennial census, an unincorporated area within a county, or a census tract in Nebraska that (a) has an unemployment rate which exceeds the statewide average unemployment rate, (b) has a per capita income below the statewide average per capita income, or (c) had a population decrease between the two most recent federal decennial censuses;
- (3) Family member means a family member within the meaning of section 267(c)(4) of the Internal Revenue Code of 1986, as amended;
- (4) Pass-through entity means an organization that for the applicable taxable year is a subchapter S corporation, general partnership, limited partnership, limited liability partnership, trust, or limited liability company and that for the applicable taxable year is not taxed as a corporation;
- (5) Qualified fund means a fund that has been certified by the director under section 77-6304;
- (6) Qualified high-technology field includes, but is not limited to, aerospace, agricultural processing, renewable energy, energy efficiency and conservation, environmental engineering, food technology, cellulosic ethanol, information technology, materials science technology, nanotechnology, telecommunications, biosolutions, medical device products, pharmaceuticals, diagnostics, biologicals, chemistry, veterinary science, and similar fields;
- (7) Qualified investment means a cash investment in a qualified small business made in exchange for common stock, a partnership or membership interest, preferred stock, debt with mandatory conversion to equity, or an equivalent ownership interest as determined by the director of a minimum of:
  - (a) Twenty-five thousand dollars in a calendar year by a qualified investor; or
  - (b) Fifty thousand dollars in a calendar year by a qualified fund;
- (8) Qualified investor means an individual, trust, or pass-through entity which has been certified by the director under section 77-6305; and
- (9) Qualified small business means a business that has been certified by the director under section 77-6303.

**Source:** Laws 2011, LB389, § 2.  
Operative date September 1, 2011.

**77-6303 Qualified small business; certification; application; form; director; duties; qualification; eligibility for tax credits.**

(1) A business may apply to the director for certification as a qualified small business. The application shall be in the form and be made under the procedures specified by the director.

(2) Within thirty days after receiving an application for certification under this section, the director shall certify the business as satisfying the conditions required of a qualified small business, request additional information, or deny the application. If the director requests additional information, the director shall certify the business or deny the application within thirty days after receiving the additional information. If the director neither certifies the business nor denies the application within thirty days after receiving the original application or within thirty days after receiving the additional information requested, whichever is later, then the application is deemed approved if the business meets the qualifications in subsection (3) of this section. A business that applies for certification and is denied may reapply.

(3) To be certified, a business shall:

- (a) Have its headquarters in Nebraska;
- (b) Have at least fifty-one percent of its employees employed in Nebraska and have at least fifty-one percent of its total payroll paid or incurred in Nebraska;
- (c) Be engaged in, or committed to engage in, innovation in Nebraska in one or more of the following activities as its primary business activity:
  - (i) Using proprietary technology to add value to a product, process, or service in a qualified high-technology field; or
  - (ii) Researching, developing, or producing a proprietary product, process, or service in a qualified high-technology field;
- (d) Except for activities listed in subdivision (3)(c) of this section, not be engaged in political consulting, leisure, hospitality, or professional services provided by attorneys, accountants, physicians, or health care consultants; and
- (e) Have twenty-five or fewer employees at the time the qualified investment is made.

(4) In order for a qualified investment in a qualified small business to be eligible for tax credits, the business shall have applied for and received certification for the calendar year in which the qualified investment was made prior to the date on which the qualified investment was made.

**Source:** Laws 2011, LB389, § 3.

Operative date September 1, 2011.

**77-6304 Pass-through entity; certification as qualified fund; application; form; director; duties; qualification; eligibility for tax credits.**

(1) A pass-through entity may apply to the director for certification as a qualified fund for a calendar year. The application shall be in the form and be made under the procedures specified by the director.

(2) Within thirty days after receiving an application for certification under this section, the director shall certify the pass-through entity as satisfying the conditions required of a qualified fund, request additional information, or deny the application. If the director requests additional information, the director shall certify the pass-through entity or deny the application within thirty days after receiving the additional information. If the director neither certifies the pass-through entity nor denies the application within thirty days after receiving



the original application or within thirty days after receiving the additional information requested, whichever is later, then the application is deemed approved if the pass-through entity meets the qualifications in subsection (3) of this section. A pass-through entity that applies for certification and is denied may reapply.

(3) To be certified, a pass-through entity shall:

(a) Invest or intend to invest in qualified small businesses; and

(b) Have at least three separate investors and all the investors satisfy the conditions in subsection (3) of section 77-6305.

(4) A qualified fund may consist of equity investments or notes that pay interest or other fixed amounts, or any combination of both.

(5) In order for a qualified investment in a qualified small business to be eligible for tax credits, a qualified fund that makes the qualified investment shall have applied for and received certification for the calendar year in which the qualified investment was made prior to making the qualified investment.

**Source:** Laws 2011, LB389, § 4.

Operative date September 1, 2011.

**77-6305 Individual, trust, or pass-through entity; certification; application; form; director; duties; qualification; eligibility for tax credits.**

(1) An individual, trust, or pass-through entity may apply to the director for certification as a qualified investor for a calendar year. The application shall be in the form and be made under the procedures specified by the director. The director shall not certify the following types of individuals, trusts, or pass-through entities as qualified investors:

(a) An individual who controls fifty percent or more of the qualified small business receiving the qualified investment;

(b) A venture capital company; or

(c) Any bank, savings and loan association, insurance company, or similar entity whose normal business activities include venture capital investments.

(2) Within thirty days after receiving an application for certification under this section, the director shall certify the individual, trust, or pass-through entity as satisfying the conditions required of a qualified investor, request additional information, or deny the application. If the director requests additional information, the director shall certify the individual, trust, or pass-through entity or deny the application within thirty days after receiving the additional information. If the director neither certifies the individual, trust, or pass-through entity nor denies the application within thirty days after receiving the original application or within thirty days after receiving the additional information requested, whichever is later, then the application is deemed approved if the individual, trust, or pass-through entity meets the qualifications in subsection (1) of this section. An individual, trust, or pass-through entity which applies for certification and is denied may reapply.

(3) In order for a qualified investment in a qualified small business to be eligible for tax credits, a qualified investor who makes the qualified investment shall have applied for and received certification for the calendar year in which the qualified investment was made prior to making the qualified investment, except that in the case of an investor who is an accredited investor within the

meaning of Regulation D of the Securities and Exchange Commission, 17 C.F.R. 230.501(a), as such regulation existed on January 1, 2011, application for certification may be made within thirty days after making the qualified investment.

**Source:** Laws 2011, LB389, § 5.  
Operative date September 1, 2011.

**77-6306 Tax credit; amount; director; allocation; limitation; reallocation; when; notice to director; tax credit certificates issued; holding period.**

(1) For taxable years beginning or deemed to begin on or after January 1, 2011, under the Internal Revenue Code of 1986, as amended, a qualified investor or qualified fund is eligible for a refundable tax credit equal to thirty-five percent of its qualified investment in a qualified small business, except that if the qualified small business is located in a distressed area the qualified investor or qualified fund is eligible for a refundable tax credit equal to forty percent of its qualified investment in the qualified small business. The director shall not allocate more than three million dollars in tax credits to all qualified investors or qualified funds in a calendar year. If the director does not allocate the entire three million dollars of tax credits in a calendar year, the tax credits that are not allocated shall not carry forward to subsequent years. The director shall not allocate any amount for tax credits for calendar years after 2017.

(2) The director shall not allocate more than a total maximum amount in tax credits for a calendar year to a qualified investor for the investor's cumulative qualified investments as an individual qualified investor and as an investor in a qualified fund as provided in this subsection. For married couples filing joint returns the maximum is three hundred fifty thousand dollars, and for all other filers the maximum is three hundred thousand dollars. The director shall not allocate more than a total of one million dollars in tax credits for qualified investments in any one qualified small business.

(3) The director shall not allocate a tax credit to a qualified investor either as an individual qualified investor or as an investor in a qualified fund if the investor receives more than forty-nine percent of the investor's gross annual income from the qualified small business in which the qualified investment is proposed. A family member of an individual disqualified by this subsection is not eligible for a tax credit under this section. For a married couple filing a joint return, the limitations in this subsection apply collectively to the investor and spouse. For purposes of determining the ownership interest of an investor under this subsection, the rules under section 267(c) and (e) of the Internal Revenue Code of 1986, as amended, apply.

(4) Tax credits shall be allocated to qualified investors or qualified funds in the order that the tax credit applications are filed with the director. Once tax credits have been approved and allocated by the director, the qualified investors and qualified funds shall implement the qualified investment specified within ninety days. If the qualified investment is not made within ninety days, the tax credit allocation is canceled and available for reallocation. A qualified investor or qualified fund that fails to invest as specified in the application within ninety days after allocation of the tax credits shall notify the director of the failure to invest within five business days after the expiration of the ninety-day investment period.

(5) All tax credit applications filed with the director on the same day shall be treated as having been filed contemporaneously. If two or more qualified investors or qualified funds file tax credit applications on the same day and the aggregate amount of tax credit allocation requests exceeds the aggregate limit of tax credits under this section or the lesser amount of tax credits that remain unallocated on that day, then the tax credits shall be allocated among the qualified investors or qualified funds who filed on that day on a pro rata basis with respect to the amounts requested. The pro rata allocation for any one qualified investor or qualified fund shall be the product obtained by multiplying a fraction, the numerator of which is the amount of the tax credit allocation request filed on behalf of a qualified investor or qualified fund and the denominator of which is the total of all tax credit allocation requests filed on behalf of all applicants on that day, by the amount of tax credits that remain unallocated on that day for the taxable year.

(6) A qualified investor or qualified fund, or a qualified small business acting on behalf of the investor or fund, shall notify the director when an investment for which tax credits were allocated has been made and the date the investment was made. A qualified fund shall also provide the director with a statement indicating the amount invested by each investor in the qualified fund based on each investor's share of the assets of the qualified fund at the time of the qualified investment. After receiving notification that the qualified investment was made, the director shall issue tax credit certificates for the taxable year in which the qualified investment was made to the qualified investor or, for a qualified investment made by a qualified fund, to each qualified investor who is an investor in the fund. The certificate shall state that the tax credit is subject to revocation if the qualified investor or qualified fund does not hold the investment in the qualified small business for at least three years, consisting of the calendar year in which the investment was made and the two following calendar years. The three-year holding period does not apply if:

(a) The qualified investment by the qualified investor or qualified fund becomes worthless before the end of the three-year period;

(b) Eighty percent or more of the assets of the qualified small business are sold before the end of the three-year period;

(c) The qualified small business is sold or merges with another business before the end of the three-year period; or

(d) The qualified small business's common stock begins trading on a public exchange before the end of the three-year period.

(7) The director shall notify the Tax Commissioner that tax credit certificates have been issued, including the amount of tax credits and all other pertinent tax information.

**Source:** Laws 2011, LB389, § 6.

Operative date September 1, 2011.

**77-6307 Annual report; contents; failure to file; fine; final report; when required.**

(1) Beginning July 1, 2012, each qualified small business, qualified investor, and qualified fund shall submit an annual report to the director by July 1 of each year identifying the amount of money that has been invested by or in it in the previous calendar year under the Angel Investment Tax Credit Act.

(2) The report shall certify that the business, investor, and fund satisfies the requirements of the act.

(3) A qualified small business that ceases all operations and becomes insolvent shall file a final report with the director in the form required by the director documenting its insolvency.

(4) To maintain the confidentiality of the qualified investor and qualified small business, the Department of Economic Development shall use a designated number to identify such persons or businesses.

(5) A qualified small business, qualified investor, or qualified fund that fails to file an annual report by July 1 shall be subject to a fine of two hundred dollars.

**Source:** Laws 2011, LB389, § 7.

Operative date September 1, 2011.

**77-6308 Tax credit recaptured; when; director; powers and duties.**

(1) If, at any time within six years after the allocation of tax credits is made, the director determines that a qualified investor or qualified fund did not meet the three-year holding period required in section 77-6306, any tax credit allocated and certified to the investor or fund shall be recaptured. The director shall notify the Tax Commissioner of such determination, and the Tax Commissioner shall recapture the tax credits.

(2) The director shall, to the extent possible, assure that the allocation of such tax credits provides equitable access to the benefits provided by the Angel Investment Tax Credit Act by all geographic areas of the state.

(3) The director may engage in contractual relationships with a statewide public or private nonprofit organization which shall serve as the agent for the Department of Economic Development in order to effect the purposes and fulfill the requirements of the act.

**Source:** Laws 2011, LB389, § 8.

Operative date September 1, 2011.

**77-6309 Department of Economic Development; report; contents.**

By November 15 of each odd-numbered year, the Department of Economic Development shall submit a report to the Legislature and the Governor that includes:

(1) The number and geographic location of qualified investors;

(2) The number, geographic location, and amount of qualified investment made into each qualified small business;

(3) A breakdown of the industry sectors in which qualified small businesses are involved;

(4) The number of actual tax credits issued by project under the Angel Investment Tax Credit Act on an annual basis; and

(5) The number of jobs created at each qualified small business.

**Source:** Laws 2011, LB389, § 9.

Operative date September 1, 2011.

**77-6310 Rules and regulations.**

The Department of Economic Development and the Department of Revenue may adopt and promulgate rules and regulations to administer and enforce the Angel Investment Tax Credit Act.

**Source:** Laws 2011, LB389, § 10.  
Operative date September 1, 2011.



## CHAPTER 79

### SCHOOLS

Article.

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  - (p) Excellence in Teaching Act. 79-8,133 to 79-8,139.
9. School Employees Retirement Systems.
  - (a) Employees of Other than Class V District. 79-901 to 79-966.
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10. School Taxation, Finance, and Facilities.
  - (a) Tax Equity and Educational Opportunities Support Act. 79-1001 to 79-1031.01.
  - (b) School Funds. 79-1044 to 79-1051.
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11. Special Populations and Services.
  - (a) Early Childhood Education. 79-1103.
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13. Educational Technology and Telecommunications.
  - (b) Educational Telecommunications. 79-1316.
21. Learning Community. 79-2104 to 79-2121.
22. Interstate Compact on Educational Opportunity for Military Children. 79-2201 to 79-2206.

#### ARTICLE 2

#### PROVISIONS RELATING TO STUDENTS

##### (a) COMPULSORY EDUCATION

Section

- 79-209. Compulsory attendance; nonattendance; school district; duties; remedial services; enforcement.

##### (a) COMPULSORY EDUCATION

**79-209 Compulsory attendance; nonattendance; school district; duties; remedial services; enforcement.**

In all school districts in this state, any superintendent, principal, teacher, or member of the school board who knows of any violation of section 79-201 on the part of any child of school age, his or her parent, the person in actual or

legal control of such child, or any other person shall within three days report such violation to the attendance officer of the school, who shall investigate the case. When of his or her personal knowledge, by report or complaint from any resident of the district, or by report or complaint as provided in this section, the attendance officer believes that any child is unlawfully absent from school, the attendance officer shall immediately investigate.

All school districts shall have a written policy on excessive absenteeism developed in collaboration with the county attorney of the county in which the principal office of the school district is located. The policy shall include a provision indicating how the school district and the county attorney will handle cases in which excessive absences are due to documented illness that makes attendance impossible or impracticable, and the policy shall state the number of absences or the hourly equivalent upon the occurrence of which the school shall render all services in its power to compel such child to attend some public, private, denominational, or parochial school, which the person having control of the child shall designate, in an attempt to address the problem of excessive absenteeism. The number of absences in the policy shall not exceed five days per quarter or the hourly equivalent. School districts may use excused and unexcused absences for purposes of the policy. Such services shall include, but need not be limited to:

(1) One or more meetings between a school attendance officer, school social worker or the school principal or a member of the school administrative staff designated by the school administration if such school does not have a school social worker, the child's parent or guardian, and the child, if necessary, to report and to attempt to solve the problem of excessive absenteeism;

(2) Educational counseling to determine whether curriculum changes, including, but not limited to, enrolling the child in an alternative education program that meets the specific educational and behavioral needs of the child, would help solve the problem of excessive absenteeism;

(3) Educational evaluation, which may include a psychological evaluation, to assist in determining the specific condition, if any, contributing to the problem of excessive absenteeism, supplemented by specific efforts by the school to help remedy any condition diagnosed; and

(4) Investigation of the problem of excessive absenteeism by the school social worker, or if such school does not have a school social worker, by the school principal or a member of the school administrative staff designated by the school administration, to identify conditions which may be contributing to the problem. If services for the child and his or her family are determined to be needed, the school social worker or the school principal or a member of the school administrative staff performing the investigation shall meet with the parent or guardian and the child to discuss any referral to appropriate community agencies for economic services, family or individual counseling, or other services required to remedy the conditions that are contributing to the problem of excessive absenteeism.

If the child is absent more than twenty days per year or the hourly equivalent, the attendance officer shall file a report with the county attorney of the county in which such person resides. The county attorney may file a complaint against a person violating section 79-201 before the judge of the county court of the county in which such person resides charging such person with violation of section 79-201 or may file a petition under the Nebraska Juvenile Code alleging



the person violating section 79-201 is a juvenile described in subdivision (3)(a) or (3)(b) of section 43-247. Nothing in this section shall preclude a county attorney from being involved at any stage in the process to address excessive absenteeism.

**Source:** Laws 1901, c. 70, § 2, p. 456; Laws 1903, c. 95, § 2, p. 552; Laws 1905, c. 141, § 1, p. 578; Laws 1909, c. 130, § 1, p. 474; R.S.1913, § 6925; Laws 1919, c. 155, § 9, p. 350; Laws 1921, c. 53, § 2, p. 231; C.S.1922, § 6509; C.S.1929, § 79-1914; R.S.1943, § 79-1922; Laws 1949, c. 256, § 17, p. 696; Laws 1986, LB 528, § 8; Laws 1994, LB 1250, § 5; R.S.1943, (1994), § 79-211; Laws 1996, LB 900, § 13; Laws 1998, Spec. Sess., LB 1, § 6; Laws 1999, LB 272, § 28; Laws 2010, LB800, § 35; Laws 2011, LB463, § 19.

Operative date May 12, 2011.

**Cross References**

Nebraska Juvenile Code, see section 43-2,129.

**ARTICLE 3**

**STATE DEPARTMENT OF EDUCATION**

(c) STATE BOARD OF EDUCATION

Section

79-311. State Board of Education; districts; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties.

79-312. State Board of Education districts; population figures and maps; basis.

79-318. State Board of Education; powers; duties.

(c) STATE BOARD OF EDUCATION

**79-311 State Board of Education; districts; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties.**

(1) For the purpose of section 79-310, the state is divided into eight districts. Each district shall be entitled to one member on the board.

(2) The numbers and boundaries of the districts are designated and established by maps identified and labeled as maps ED11-1, ED11-2, ED11-3, ED11-4, ED11-5, ED11-5A, ED11-6, ED11-7, and ED11-8, filed with the Clerk of the Legislature, and incorporated by reference as part of Laws 2011, LB702.

(3)(a) The Clerk of the Legislature shall transfer possession of the maps referred to in subsection (2) of this section to the Secretary of State on May 27, 2011.

(b) When questions of interpretation of district boundaries arise, the maps referred to in subsection (2) of this section in possession of the Secretary of State shall serve as the indication of the legislative intent in drawing the district boundaries.

(c) Each election commissioner or county clerk shall obtain copies of the maps referred to in subsection (2) of this section for the election commissioner's or clerk's county from the Secretary of State.

(d) The Secretary of State shall also have available for viewing on his or her web site the maps referred to in subsection (2) of this section identifying the boundaries for the districts.

**Source:** Laws 1967, c. 527, § 2, p. 1751; Laws 1971, LB 735, § 1; Laws 1981, LB 554, § 1; Laws 1991, LB 619, § 2; R.S.1943, (1994),

§ 79-322.01; Laws 1996, LB 900, § 139; Laws 2001, LB 856, § 2; Laws 2011, LB702, § 1.  
Effective date May 27, 2011.

**79-312 State Board of Education districts; population figures and maps; basis.**

For purposes of section 79-311, the Legislature adopts the official population figures and maps from the 2010 Census Redistricting (Public Law 94-171) TIGER/Line Shapefiles published by the United States Department of Commerce, Bureau of the Census.

**Source:** Laws 1971, LB 735, § 2; Laws 1981, LB 554, § 2; Laws 1991, LB 619, § 3; R.S.1943, (1994), § 79-322.02; Laws 1996, LB 900, § 140; Laws 2001, LB 856, § 3; Laws 2011, LB702, § 2.  
Effective date May 27, 2011.

**79-318 State Board of Education; powers; duties.**

The State Board of Education shall:

- (1) Appoint and fix the compensation of the Commissioner of Education;
- (2) Remove the commissioner from office at any time for conviction of any crime involving moral turpitude or felonious act, for inefficiency, or for willful and continuous disregard of his or her duties as commissioner or of the directives of the board;
- (3) Upon recommendation of the commissioner, appoint and fix the compensation of a deputy commissioner and all professional employees of the board;
- (4) Organize the State Department of Education into such divisions, branches, or sections as may be necessary or desirable to perform all its proper functions and to render maximum service to the board and to the state school system;
- (5) Provide, through the commissioner and his or her professional staff, enlightened professional leadership, guidance, and supervision of the state school system, including educational service units. In order that the commissioner and his or her staff may carry out their duties, the board shall, through the commissioner: (a) Provide supervisory and consultation services to the schools of the state; (b) issue materials helpful in the development, maintenance, and improvement of educational facilities and programs; (c) establish rules and regulations which govern standards and procedures for the approval and legal operation of all schools in the state and for the accreditation of all schools requesting state accreditation. All public, private, denominational, or parochial schools shall either comply with the accreditation or approval requirements prescribed in this section and section 79-703 or, for those schools which elect not to meet accreditation or approval requirements, the requirements prescribed in subsections (2) through (6) of section 79-1601. Standards and procedures for approval and accreditation shall be based upon the program of studies, guidance services, the number and preparation of teachers in relation to the curriculum and enrollment, instructional materials and equipment, science facilities and equipment, library facilities and materials, and health and safety factors in buildings and grounds. Rules and regulations which govern standards and procedures for private, denominational, and parochial schools which elect, pursuant to the procedures prescribed in subsections (2)

through (6) of section 79-1601, not to meet state accreditation or approval requirements shall be as described in such section; (d) institute a statewide system of testing to determine the degree of achievement and accomplishment of all the students within the state's school systems if it determines such testing would be advisable; (e) prescribe a uniform system of records and accounting for keeping adequate educational and financial records, for gathering and reporting necessary educational data, and for evaluating educational progress; (f) cause to be published laws, rules, and regulations governing the schools and the school lands and funds with explanatory notes for the guidance of those charged with the administration of the schools of the state; (g) approve teacher education programs conducted in Nebraska postsecondary educational institutions designed for the purpose of certificating teachers and administrators; (h) approve certificated-employee evaluation policies and procedures developed by school districts and educational service units; and (i) approve general plans and adopt educational policies, standards, rules, and regulations for carrying out the board's responsibilities and those assigned to the State Department of Education by the Legislature;

(6) Adopt and promulgate rules and regulations for the guidance, supervision, accreditation, and coordination of educational service units. Such rules and regulations for accreditation shall include, but not be limited to, (a) a requirement that programs and services offered to school districts by each educational service unit shall be evaluated on a regular basis, but not less than every seven years, to assure that educational service units remain responsive to school district needs and (b) guidelines for the use and management of funds generated from the property tax levy and from other sources of revenue as may be available to the educational service units, to assure that public funds are used to accomplish the purposes and goals assigned to the educational service units by section 79-1204. The State Board of Education shall establish procedures to encourage the coordination of activities among educational service units and to encourage effective and efficient educational service delivery on a statewide basis;

(7) Submit a biennial report to the Governor and the Clerk of the Legislature covering the actions of the board, the operations of the State Department of Education, and the progress and needs of the schools and recommend such legislation as may be necessary to satisfy these needs;

(8) Prepare and distribute reports designed to acquaint school district officers, teachers, and patrons of the schools with the conditions and needs of the schools;

(9) Provide for consultation with professional educators and lay leaders for the purpose of securing advice deemed necessary in the formulation of policies and in the effectual discharge of its duties;

(10) Make studies, investigations, and reports and assemble information as necessary for the formulation of policies, for making plans, for evaluating the state school program, and for making essential and adequate reports;

(11) Submit to the Governor and the Legislature a budget necessary to finance the state school program under its jurisdiction, including the internal operation and maintenance of the State Department of Education;

(12) Interpret its own policies, standards, rules, and regulations and, upon reasonable request, hear complaints and disputes arising therefrom;

(13) With the advice of the Department of Motor Vehicles, adopt and promulgate rules and regulations containing reasonable standards, not inconsistent with existing statutes, governing: (a) The general design, equipment, color, operation, and maintenance of any vehicle with a manufacturer's rated seating capacity of eleven or more passengers used for the transportation of public, private, denominational, or parochial school students; and (b) the equipment, operation, and maintenance of any vehicle with a capacity of ten or less passengers used for the transportation of public, private, denominational, or parochial school students, when such vehicles are owned, operated, or owned and operated by any public, private, denominational, or parochial school or privately owned or operated under contract with any such school in this state, except for vehicles owned by individuals operating a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements. Similar rules and regulations shall be adopted and promulgated for operators of such vehicles as provided in section 79-607;

(14) Accept, on behalf of the Nebraska Center for the Education of Children who are Blind or Visually Impaired, devise of real property or donations or bequests of other property, or both, if in its judgment any such devise, donation, or bequest is for the best interest of the center or the students receiving services from the center, or both, and irrigate or otherwise improve any such real estate when in the board's judgment it would be advisable to do so;

(15) Accept, in order to administer the Interstate Compact on Educational Opportunity for Military Children, any devise, donation, or bequest received by the State Department of Education pursuant to section 79-2206; and

(16) Upon acceptance of any devise, donation, or bequest as provided in this section, administer and carry out such devise, donation, or bequest in accordance with the terms and conditions thereof. If not prohibited by the terms and conditions of any such devise, donation, or bequest, the board may sell, convey, exchange, or lease property so devised, donated, or bequeathed upon such terms and conditions as it deems best and remit all money derived from any such sale or lease to the State Treasurer for credit to the State Department of Education Trust Fund.

Each member of the Legislature shall receive a copy of the report required by subdivision (7) of this section by making a request for it to the commissioner.

None of the duties prescribed in this section shall prevent the board from exercising such other duties as in its judgment may be necessary for the proper and legal exercise of its obligations.

**Source:** Laws 1953, c. 320, § 8, p. 1056; Laws 1955, c. 306, § 1, p. 947; Laws 1959, c. 383, § 1, p. 1328; Laws 1967, c. 528, § 2, p. 1753; Laws 1969, c. 707, § 2, p. 2712; Laws 1969, c. 708, § 1, p. 2716; Laws 1971, LB 292, § 5; Laws 1974, LB 863, § 8; Laws 1977, LB 205, § 1; Laws 1979, LB 322, § 37; Laws 1981, LB 316, § 1; Laws 1981, LB 545, § 27; Laws 1984, LB 928, § 2; Laws 1984, LB 994, § 6; Laws 1986, LB 1177, § 36; Laws 1987, LB 688, § 11; Laws 1989, LB 15, § 1; Laws 1989, LB 285, § 141; Laws 1990, LB 980, § 34; Laws 1994, LB 858, § 3; R.S.1943, (1994), § 79-328; Laws 1996, LB 900, § 146; Laws 1999, LB 813, § 6; Laws 2009, LB549, § 18; Laws 2010, LB1071, § 5; Laws 2011, LB575, § 8.

Operative date July 1, 2012.

## Cross References

Gifts, devises, and bequests, loans to needy students, see section 79-2,106.

Interstate Compact on Educational Opportunity for Military Children, see section 79-2201.

Private, denominational, or parochial schools, election not to meet approval or accreditation requirements, see section 79-1601.

## ARTICLE 4

## SCHOOL ORGANIZATION AND REORGANIZATION

## (b) LEGAL STATUS, FORMATION, AND TERRITORY

## Section

79-408. Class IV school district; boundaries; body corporate; powers; retirement plans; restrictions.

## (c) PETITION PROCESS FOR REORGANIZATION

79-413. School districts; creation from other school districts; change of boundaries; affiliation; conditions; petition method; procedure.

## (b) LEGAL STATUS, FORMATION, AND TERRITORY

**79-408 Class IV school district; boundaries; body corporate; powers; retirement plans; restrictions.**

The territory now or hereafter embraced within each incorporated city of the primary class in the State of Nebraska that is not in part within the boundaries of a learning community, such adjacent territory as now or hereafter may be included therewith for school purposes, and such territory not adjacent thereto as may have been added thereto by law shall constitute a Class IV school district, except that nothing in this section shall be construed to change the boundaries of any school district that is a member of a learning community. A Class IV school district shall be a body corporate and possess all the usual powers of a corporation for public purposes, may sue and be sued, and may purchase, hold, and sell such personal and real estate and contract such obligations as are authorized by law. The powers of a Class IV district include, but are not limited to, the power to adopt, administer, and amend from time to time such retirement, annuity, insurance, and other benefit plans for its present and future employees after their retirement, or any reasonable classification thereof, as may be deemed proper by the board of education. The board of education shall not establish a retirement system for new employees supplemental to the School Employees Retirement System of the State of Nebraska.

The title to all real or personal property owned by such school district shall, upon the organization of the school district, vest immediately in the school district so created. The board of education shall have exclusive control of all property belonging to the school district.

In the discretion of the board of education, funds accumulated in connection with a retirement plan may be transferred to and administered by a trustee or trustees to be selected by the board of education, or if the retirement plan is in the form of annuity or insurance contracts, such funds, or any part thereof, may be paid to a duly licensed insurance carrier or carriers selected by the board of education. Funds accumulated in connection with any such retirement plan, and any other funds of the school district which are not immediately required for current needs or expenses, may be invested and reinvested by the board of education or by its authority in securities of a type permissible either for the

investment of funds of a domestic legal reserve life insurance company or for the investment of trust funds, according to the laws of the State of Nebraska.

**Source:** Laws 1917, c. 225, § 1, p. 550; C.S.1922, § 6610; C.S.1929, § 79-2601; R.S.1943, § 79-2601; Laws 1947, c. 294, § 1(1), p. 907; Laws 1949, c. 256, § 244, p. 772; Laws 1963, c. 489, § 1, p. 1561; Laws 1971, LB 475, § 1; Laws 1988, LB 1142, § 7; R.S.1943, (1994), § 79-901; Laws 1996, LB 900, § 157; Laws 2005, LB 126, § 14; Laws 2006, LB 1024, § 22; Referendum 2006, No. 422; Laws 2011, LB509, § 15.  
Operative date July 1, 2011.

(c) PETITION PROCESS FOR REORGANIZATION

**79-413 School districts; creation from other school districts; change of boundaries; affiliation; conditions; petition method; procedure.**

(1) The State Committee for the Reorganization of School Districts created under section 79-435 may create a new school district from other districts, change the boundaries of any district that is not a member of a learning community, or affiliate a Class I district or portion thereof with one or more existing Class II, III, IV, or V districts upon receipt of petitions signed by sixty percent of the legal voters of each district affected. If the petitions contain signatures of at least sixty-five percent of the legal voters of each district affected, the state committee shall approve the petitions. When area is added to a Class VI district or when a Class I district which is entirely or partially within a Class VI district is taken from the Class VI district, the Class VI district shall be deemed to be an affected district.

Any petition of the legal voters of a Class I district in which no city or village is situated which is commenced after January 1, 1996, and proposes the dissolution of the Class I district and the attachment of a portion of it to two or more districts shall require signatures of more than fifty percent of the legal voters of such Class I district. If the state committee determines that such petition contains valid signatures of more than fifty percent of the legal voters of such Class I district, the state committee shall grant the petition.

(2)(a) Petitions proposing to change the boundaries of existing school districts that are not members of a learning community through the transfer of a parcel of land, not to exceed six hundred forty acres, shall be approved by the state committee when the petitions involve the transfer of land between Class I, II, III, or IV school districts or when there would be an exchange of parcels of land between Class I, II, III, or IV school districts and the petitions have the approval of at least sixty-five percent of the school board of each affected district. If the transfer of the parcel of land is from a Class I school district to one or more Class II, III, IV, V, or VI school districts of which the parcel is not a part or with which the parcel is not affiliated, any Class II, III, IV, V, or VI school district of which the parcel is not a part or with which the parcel is affiliated shall be deemed an affected district.

(b) The state committee shall not approve a change of boundaries pursuant to this section relating to affiliation of school districts if twenty percent or more of any tract of land under common ownership which is proposing to affiliate is not contiguous to the high school district with which affiliation is proposed unless (i) one or more resident students of the tract of land under common ownership

has attended the high school program of the high school district within the immediately preceding ten-year period or (ii) approval of the petition or plan would allow siblings of such resident students to attend the same school as the resident students attended.

(3)(a) Petitions proposing to create a new school district, to change the boundary lines of existing school districts that are not members of a learning community, to create an affiliated school system, or to affiliate a Class I district in part and to join such district in part with a Class VI district, any of which involves the transfer of more than six hundred forty acres, shall, when signed by at least sixty percent of the legal voters in each district affected, be submitted to the state committee. In the case of a petition for affiliation or a petition to affiliate in part and in part to join a Class VI district, the state committee shall review the proposed affiliation subject to sections 79-425 and 79-426. The state committee shall, within forty days after receipt of the petition, hold one or more public hearings and review and approve or disapprove such proposal.

(b) If there is a bond election to be held in conjunction with the petition, the state committee shall hold the petition until the bond election has been held, during which time names may be added to or withdrawn from the petitions. The results of the bond election shall be certified to the state committee.

(c) If the bond election held in conjunction with the petition is unsuccessful, no further action on the petition is required. If the bond election is successful, within fifteen days after receipt of the certification of the bond election results, the state committee shall approve the petition and notify the county clerk to effect the changes in district boundary lines as set forth in the petitions.

(4) Any person adversely affected by the changes made by the state committee may appeal to the district court of any county in which the real estate or any part thereof involved in the dispute is located. If the real estate is located in more than one county, the court in which an appeal is first perfected shall obtain jurisdiction to the exclusion of any subsequent appeal.

(5) A signing petitioner may withdraw his or her name from a petition and a legal voter may add his or her name to a petition at any time prior to the end of the period when the petition is held by the state committee. Additions and withdrawals of signatures shall be by notarized affidavit filed with the state committee.

**Source:** Laws 1881, c. 78, subdivision I, § 4, p. 332; Laws 1883, c. 72, § 1, p. 288; Laws 1885, c. 79, § 1, p. 319; Laws 1889, c. 78, § 1, p. 539; Laws 1895, c. 58, § 1, p. 221; Laws 1901, c. 59, § 1, p. 429; Laws 1909, c. 117, § 1, p. 451; R.S.1913, § 6703; C.S.1922, § 6241; Laws 1923, c. 63, § 1, p. 190; Laws 1925, c. 177, § 1, p. 461; C.S.1929, § 79-104; Laws 1931, c. 145, § 1, p. 396; C.S.Supp.,1941, § 79-104; Laws 1943, c. 197, § 1(2), p. 659; R.S.1943, § 79-105; Laws 1949, c. 256, § 41, p. 706; Laws 1951, c. 276, § 2, p. 928; Laws 1953, c. 295, § 1, p. 999; Laws 1955, c. 315, § 3, p. 973; Laws 1957, c. 342, § 1, p. 1181; Laws 1959, c. 385, § 1, p. 1334; Laws 1963, c. 471, § 1, p. 1511; Laws 1963, c. 473, § 1, p. 1519; Laws 1963, c. 474, § 1, p. 1522; Laws 1963, c. 475, § 1, p. 1525; Laws 1963, c. 472, § 1, p. 1514; Laws 1967, c. 529, § 1, p. 1757; Laws 1971, LB 468, § 1; Laws 1984, LB 1098, § 1; Laws 1990, LB 259, § 5; Laws 1991, LB 511, § 11; Laws 1992, LB 245, § 16; Laws 1992, LB 719, § 1; Laws 1996, LB 604,

§ 4; R.S.1943, (1994), § 79-402; Laws 1996, LB 900, § 162; Laws 1996, LB 1050, § 2; Laws 1997, LB 806, § 6; Laws 1999, LB 272, § 30; Laws 2001, LB 302, § 1; Laws 2005, LB 126, § 17; Laws 2006, LB 1024, § 24; Referendum 2006, No. 422; Laws 2011, LB8, § 1; Laws 2011, LB235, § 2.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB8, section 1, with LB235, section 2, to reflect all amendments.

**Note:** Changes made by LB235 became effective April 27, 2011. Changes made by LB8 became effective August 27, 2011.

## ARTICLE 5

### SCHOOL BOARDS

#### (b) SCHOOL BOARD DUTIES

##### Section

79-536. Summer school; children in school system; unsatisfactory progress; summer school sessions; curricula.

#### (b) SCHOOL BOARD DUTIES

**79-536 Summer school; children in school system; unsatisfactory progress; summer school sessions; curricula.**

(1) Summer school means educational opportunities that, except as otherwise provided in this section, are undertaken on a voluntary basis by students who will be entering any of grades one through twelve in the next school year and are offered during the period of time between two consecutive school years.

(2) Summer school may be offered by any school district.

(3) The board of education of any school district may require children between and including the ages of six and fifteen years, regularly enrolled within the system and deemed by the school administration to be making unsatisfactory progress, to attend summer school for up to one-half of a regular school day if in the opinion of the administration they would benefit from the experience. Chief emphasis in such summer classes shall be on reading, language arts, and arithmetic and those areas of personality development especially in need of development. Teachers shall be encouraged to design new and imaginative techniques and curricula not usually used during the regular school year which in the opinion of such teachers will offer new incentives towards learning, with special emphasis on those techniques that seek to develop the students' personalities in a wholesome manner, especially developing pride, self-confidence, and self-control. Teachers of such classes shall not be assigned more than fifteen students, or more than twenty-five students if assisted full time by an aide or paraprofessional. Such students shall be graded at the end of the course upon their relative degree of striving to improve their skills, attitudes, and personalities.

**Source:** Laws 1969, c. 699, § 1, p. 2698; R.S.1943, (1994), § 79-1001.02; Laws 1996, LB 900, § 289; Laws 2006, LB 1024, § 54; Laws 2011, LB235, § 3.  
Effective date April 27, 2011.



## ARTICLE 7

## ACCREDITATION, CURRICULUM, AND INSTRUCTION

## (c) CURRICULUM AND INSTRUCTION REQUIREMENTS

Section

- 79-720. Multicultural education program; incorporation into curriculum; department; duties.
- 79-722. Evaluation of multicultural education program; report.
- 79-724. American citizenship; committee on Americanism; created; duties; required instruction; patriotic exercises; duties of officers.
- (i) QUALITY EDUCATION ACCOUNTABILITY ACT
- 79-757. Act, how cited.
- 79-759. Pilot project; standard college admission test; report.
- 79-760.04. Learning community; joint plan; contents; report of data by school districts.
- 79-760.05. Statewide system for tracking individual student achievement; State Board of Education; duties; school districts; provide data; analysis and reports.
- (k) LEARNING COMMUNITY FOCUS SCHOOL OR PROGRAM
- 79-769. Focus programs; focus schools; magnet schools; authorized; requirements.

## (c) CURRICULUM AND INSTRUCTION REQUIREMENTS

**79-720 Multicultural education program; incorporation into curriculum; department; duties.**

(1) Each school district, in consultation with the State Department of Education, shall develop for incorporation into all phases of the curriculum of grades kindergarten through twelve a multicultural education program.

(2) The department shall create and distribute recommended multicultural education curriculum guidelines to all school districts. Each district shall create its own multicultural education program based on such recommended guidelines.

(3) The incorporation of the multicultural education program into the curriculum of each district shall not change (a) the number of instructional hours prescribed for elementary and high school students or (b) the number of instructional hours dedicated to the existing curriculum of each district.

**Source:** Laws 1992, LB 922, § 2; Laws 1993, LB 27, § 1; R.S.1943, (1994), § 79-4,230; Laws 1996, LB 900, § 394; Laws 2011, LB333, § 2.

Effective date March 16, 2011.

**79-722 Evaluation of multicultural education program; report.**

In conjunction with the multicultural education program prescribed in section 79-720, the State Department of Education shall design a process for evaluating the implementation and effectiveness of each multicultural education program, including the collection of baseline data. The collection of baseline data for evaluating the implementation and effectiveness of each multicultural education program shall not include the testing, assessment, or evaluation of individual students' attitudes or beliefs. An evaluation of the implementation and effectiveness of each multicultural education program shall be conducted every five school years. On or before November 1, 2013, and on or before November 1 every five years thereafter, the department shall report the results of each evaluation to the Clerk of the Legislature, the Education

Committee of the Legislature, and the State Board of Education and publish such report on a web site established by the department.

**Source:** Laws 1992, LB 922, § 4; Laws 1993, LB 27, § 2; R.S.1943, (1994), § 79-4,232; Laws 1996, LB 900, § 396; Laws 2011, LB333, § 3.

Effective date March 16, 2011.

**79-724 American citizenship; committee on Americanism; created; duties; required instruction; patriotic exercises; duties of officers.**

An informed, loyal, just, and patriotic citizenry is necessary to a strong, stable, just, and prosperous America. Such a citizenry necessitates that every member thereof be fully acquainted with the nation's history and that he or she be in full accord with our form of government and fully aware of the liberties, opportunities, and advantages of which we are possessed and the sacrifices and struggles of those through whose efforts these benefits were gained. Since youth is the time most susceptible to the acceptance of principles and doctrines that will influence men and women throughout their lives, it is one of the first duties of our educational system to conduct its activities, choose its textbooks, and arrange its curriculum in such a way that the love of liberty, justice, democracy, and America will be instilled in the hearts and minds of the youth of the state.

(1) Every school board shall, at the beginning of each school year, appoint from its members a committee of three, to be known as the committee on Americanism. The committee on Americanism shall:

(a) Carefully examine, inspect, and approve all textbooks used in the teaching of American history and civil government in the school. Such textbooks shall adequately stress the services of the men and women who achieved our national independence, established our constitutional government, and preserved our union and shall be so written to include contributions by ethnic groups as to develop a pride and respect for our institutions and not be a mere recital of events and dates;

(b) Assure themselves as to the character of all teachers employed and their knowledge and acceptance of the American form of government; and

(c) Take all such other steps as will assure the carrying out of the provisions of this section.

(2) All American history courses approved for grade levels as provided by this section shall include and adequately stress contributions of all ethnic groups (a) to the development and growth of America into a great nation, (b) to art, music, education, medicine, literature, science, politics, and government, and (c) to the war services in all wars of this nation.

(3) All grades of all public, private, denominational, and parochial schools, below the sixth grade, shall devote at least one hour per week to exercises or teaching periods for the following purpose:

(a) The recital of stories having to do with American history or the deeds and exploits of American heroes;

(b) The singing of patriotic songs and the insistence that every pupil memorize the Star-Spangled Banner and America; and

(c) The development of reverence for the flag and instruction as to proper conduct in its presentation.

(4) In at least two of the three grades from the fifth grade to the eighth grade in all public, private, denominational, and parochial schools, at least three periods per week shall be set aside to be devoted to the teaching of American history from approved textbooks, taught in such a way as to make the course interesting and attractive and to develop a love of country.

(5) In at least two grades of every high school, at least three periods per week shall be devoted to the teaching of civics, during which courses specific attention shall be given to the following matters:

- (a) The United States Constitution and the Constitution of Nebraska;
- (b) The benefits and advantages of our form of government and the dangers and fallacies of Nazism, Communism, and similar ideologies; and
- (c) The duties of citizenship, including active participation in the improvement of a citizen's community, state, country, and world and the value and practice of civil discourse between opposing interests.

(6) Appropriate patriotic exercises suitable to the occasion shall be held under the direction of the superintendent in every public, private, denominational, and parochial school on Lincoln's birthday, Washington's birthday, Flag Day, Memorial Day, and Veterans Day, or on the day preceding or following such holiday, if the school is in session.

(7) Every school board, the State Board of Education, and the superintendent of each school district in the state shall be held directly responsible in the order named for carrying out this section, and neglect thereof by any employee or appointed official shall be considered a dereliction of duty and cause for dismissal.

**Source:** Laws 1949, c. 256, § 19, p. 697; Laws 1969, c. 705, § 1, p. 2705; Laws 1971, LB 292, § 3; R.S.1943, (1994), § 79-213; Laws 1996, LB 900, § 398; Laws 1999, LB 272, § 86; Laws 2011, LB544, § 1. Effective date August 27, 2011.

Cross References

Flag display requirements, see section 79-707.

Violation, penalty, see section 79-727.

(i) QUALITY EDUCATION ACCOUNTABILITY ACT

**79-757 Act, how cited.**

Sections 79-757 to 79-762 shall be known and may be cited as the Quality Education Accountability Act.

**Source:** Laws 1998, LB 1228, § 1; Laws 2000, LB 812, § 1; Laws 2007, LB653, § 1; Laws 2011, LB637, § 25. Effective date May 5, 2011.

**79-759 Pilot project; standard college admission test; report.**

Beginning with the 2011-12 school year, the State Department of Education may implement a three-year pilot project for the districtwide administration of a standard college admission test, selected by the State Board of Education, to students in the eleventh grade attending a public school in a participating school district to determine if such test (1) would improve the college-going rate and career readiness of Nebraska students and (2) could be utilized as the assessment for the one grade in high school as required under section

79-760.03. Participation by school districts in the pilot project shall be voluntary and shall be subject to the approval of the board. On or before September 1, 2012, and on or before September 1 each year thereafter through 2014, the department shall report to the Governor, the Clerk of the Legislature, and the chairperson of the Education Committee of the Legislature on the pilot project. The project shall be paid for with funds from the Education Innovation Fund as provided in section 9-812.

**Source:** Laws 2011, LB637, § 26.  
Effective date May 5, 2011.

**79-760.04 Learning community; joint plan; contents; report of data by school districts.**

(1) For each learning community, any educational service units that have member school districts that are part of such learning community shall develop and implement a joint plan to establish grade level standards and provide for developmentally appropriate assessment of students in grades kindergarten through three. The joint plan shall include, but not be limited to, the subject areas of reading and mathematics and shall be developed to measure student progress toward such standards.

(2) The State Department of Education shall provide assistance in the development of the standards and assessment described in subsection (1) of this section.

(3) School districts shall report data collected pursuant to the plan described in subsection (1) of this section to such educational service units. The data shall conform with the data collection procedures established for the student identifier system pursuant to section 79-760.05.

**Source:** Laws 2007, LB653, § 7; Laws 2011, LB333, § 4.  
Effective date March 16, 2011.

**79-760.05 Statewide system for tracking individual student achievement; State Board of Education; duties; school districts; provide data; analysis and reports.**

(1) The State Board of Education shall implement a statewide system for tracking individual student achievement, using the student identifier system of the State Department of Education, that can be aggregated to track student progress by demographic characteristics, including, but not limited to, race, poverty, high mobility, attendance, and limited English proficiency, on available measures of student achievement which include, but need not be limited to, national assessment instruments and state assessment instruments. Such a system shall be designed so as to aggregate student data by available educational input characteristics, which may include class size, teacher education, teacher experience, special education, early childhood programs, federal programs, and other targeted education programs. School districts shall provide the department with individual student achievement data from assessment instruments required pursuant to section 79-760.03 in order to implement the statewide system.

(2) The department shall annually analyze and report on student achievement for the state, each school district, and each learning community aggregated by the demographic characteristics described in subsection (1) of this section. The department shall report the findings to the Governor, the Legislature, school

districts, educational service units, and each learning community. Such analysis shall include aggregated data that would indicate differences in achievement due to available educational input characteristics described in subsection (1) of this section. Such analysis shall include indicators of progress toward state achievement goals for students in poverty, limited English proficient students, and highly mobile students.

**Source:** Laws 2007, LB653, § 8; Laws 2008, LB1157, § 5; Laws 2011, LB333, § 5.  
Effective date March 16, 2011.

(k) LEARNING COMMUNITY FOCUS SCHOOL OR PROGRAM

**79-769 Focus programs; focus schools; magnet schools; authorized; requirements.**

(1) Any one or more member school districts of a learning community may establish one or more focus programs, focus schools, or magnet schools. If included as part of the diversity plan of a learning community, the focus school or focus program shall be eligible for a focus school and program allowance pursuant to section 79-1007.05.

(2) Focus schools, focus programs, and magnet schools may be included in pathways across member school districts pursuant to the diversity plan developed by the learning community coordinating council pursuant to section 79-2104.

(3) If multiple member school districts collaborate on a focus program, focus school, or magnet school, the school districts shall form a joint entity pursuant to the Interlocal Cooperation Act for the purpose of creating, implementing, and operating such focus program, focus school, or magnet school. The agreement creating such joint entity shall address legal, financial, and academic responsibilities and the assignment to participating school districts of students enrolled in such focus program, focus school, or magnet school who reside in nonparticipating school districts.

(4) For purposes of this section:

(a) Focus program means a program that does not have an attendance area, whose enrollment is designed so that the socioeconomic diversity of the students attending the focus program reflects as nearly as possible the socioeconomic diversity of the student body of the learning community, which has a unique curriculum with specific learning goals or teaching techniques different from the standard curriculum, which may be housed in a building with other public school programs, and which may consist of either the complete education program for participating students or part of the education program for participating students;

(b) Focus school means a school that does not have an attendance area, whose enrollment is designed so that the socioeconomic diversity of the students attending the focus school reflects as nearly as possible the socioeconomic diversity of the student body of the learning community, which has a unique curriculum with specific learning goals or teaching techniques different from the standard curriculum, and which is housed in a building that does not contain another public school program;

(c) Magnet school means a school having a home attendance area but which reserves a portion of its capacity specifically for students from outside the

attendance area who will contribute to the socioeconomic diversity of the student body of such school and which has a unique curriculum with specific learning goals or teaching techniques different from the standard curriculum; and

(d) Pathway means elementary, middle, and high school focus programs, focus schools, and magnet schools with coordinated curricula based on specific learning goals or teaching techniques.

**Source:** Laws 2006, LB 1024, § 57; Laws 2007, LB641, § 11; Laws 2008, LB1154, § 9; Laws 2011, LB558, § 1.  
Effective date August 27, 2011.

**Cross References**

**Interlocal Cooperation Act**, see section 13-801.

**ARTICLE 8**

**TEACHERS AND ADMINISTRATORS**

(e) UNIFIED SYSTEM OR REORGANIZED SCHOOL DISTRICTS

Section

79-852. Collective-bargaining agreement; continued; effect.

(p) EXCELLENCE IN TEACHING ACT

79-8,133. Attracting Excellence to Teaching Program; created; terms, defined.  
79-8,137.01. Enhancing Excellence in Teaching Program; created; terms, defined.  
79-8,137.05. Excellence in Teaching Cash Fund; created; use; investment.  
79-8,139. Reports.

(e) UNIFIED SYSTEM OR REORGANIZED SCHOOL DISTRICTS

**79-852 Collective-bargaining agreement; continued; effect.**

The collective-bargaining agreement of the school district or districts forming the unified system or reorganized school district with the largest number of teacher employees shall continue in full force and effect and govern all teachers in the unified system or reorganized school district until replaced by a successor agreement, and the teachers employed by the unified system or reorganized school district and previously employed by the school districts involved in the formation of the unified system or reorganized school district shall automatically be included in that bargaining unit but no certificated public school employee shall be compelled to join any organization or association. If only one collective-bargaining agreement is in effect in the school districts which are a part of the unification or reorganization, that collective-bargaining agreement shall continue in full force and effect until replaced by a successor agreement and the teachers employed by the other school districts involved in the unification or reorganization shall automatically be included in that bargaining unit. For purposes of the Industrial Relations Act, the unified system shall be deemed a public employer as defined in section 48-801.

**Source:** Laws 1980, LB 844, § 3; R.S.1943, (1994), § 79-12,106; Laws 1996, LB 900, § 482; Laws 1998, LB 1219, § 3; Laws 2011, LB397, § 17.

Operative date October 1, 2011.

**Cross References**

**Industrial Relations Act**, see section 48-801.01.

## (p) EXCELLENCE IN TEACHING ACT

**79-8,133 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) Department means the State Department of Education;
- (2) Eligible institution means a not-for-profit college or university which (a) is located in Nebraska, (b) is accredited by the North Central Association of Colleges and Schools, (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, (d) for applicants applying for the first time on or after April 23, 2009, is a student majoring in a shortage area, and (e) for applicants applying to receive a loan during fiscal year 2011-12 or 2012-13, is a student who previously received a loan pursuant to the Attracting Excellence to Teaching Program in the fiscal year immediately preceding the fiscal year in which the new loan would be received;
- (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 department, 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.  
Effective date March 16, 2011.

**79-8,137.01 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) Department means the State Department of Education;
- (2) Eligible graduate program means a program of study offered by an eligible institution which results in obtaining a graduate degree;
- (3) Eligible institution means a not-for-profit college or university which (a) is located in Nebraska, (b) is accredited by the North Central Association of Colleges and Schools, (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;

(4) 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) 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 which the superintendent of the school district or head 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;

(5) Majoring in a shortage area or subject area means pursuing a degree which will allow an individual to be properly endorsed to teach in such shortage area or subject area; and

(6) Shortage area means a secular field of teaching for which there is a shortage, as determined by the department, 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.  
Effective date March 16, 2011.

**79-8,137.05 Excellence in Teaching Cash Fund; created; use; investment.**

(1) The Excellence in Teaching Cash Fund is created. The fund shall consist of appropriations by the Legislature, transfers pursuant to section 9-812, 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) For all fiscal years except fiscal years 2011-12 and 2012-13, the department 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 department in the distribution of the funds for the Attracting Excellence to Teaching Program to eligible students. The remaining available funds shall be distributed by the department to eligible students for the Enhancing Excellence in Teaching Program.

(3) For fiscal years 2011-12 and 2012-13, the department shall allocate on an annual basis funds to be distributed for the Attracting Excellence to Teaching Program to all eligible institutions receiving applications from eligible students for loans to be received during such fiscal years. The distribution for each of fiscal years 2011-12 and 2012-13 shall be proportional based on the amounts applied for by eligible students at each institution, except that no more than one hundred percent of such amounts shall be distributed. The eligible institutions



shall act as agents of the department in the distribution of the funds for the Attracting Excellence to Teaching Program to eligible students.

(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 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.  
Effective date March 16, 2011.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

**79-8,139 Reports.**

(1) Each eligible institution shall file an annual report with the department 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 department 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. 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.  
Effective date March 16, 2011.

**ARTICLE 9**

**SCHOOL EMPLOYEES RETIREMENT SYSTEMS**

(a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT

Section	
79-901.	Act, how cited.
79-902.	Terms, defined.
79-903.	Retirement system; established; purpose.
79-904.	School retirement system; administration; retirement board; powers and duties; rules and regulations.
79-904.01.	Board; power to adjust contributions and benefits.
79-916.	Retirement system; membership; member of any other system; transfer of funds; when; Service Annuity Fund; created; use; investment.
79-920.	State school official; department employee; retirement system options.
79-926.	Retirement system; members; statement of service record; requirements for prior service credit; exception; reemployment; military service; credit; effect.

**§ 79-901****SCHOOLS**

## Section

- 79-933.03. Contributing member; credit for service in other schools; limitation; procedure; payment.
- 79-933.05. Contributing member; credit for service in other schools; limitation; procedure; payment.
- 79-933.06. Contributing member; credit for leave of absence; limitation; procedure; payment.
- 79-940. Repealed. Laws 2011, LB 509, § 55.
- 79-941. Total monthly benefit, defined; how computed.
- 79-942. Supplemental retirement benefit; how computed.
- 79-944. Supplemental retirement benefit; receipt by beneficiary.
- 79-947. Adjusted supplemental retirement benefit; determination; computation; payment; funding.
- 79-947.01. Repealed. Laws 2011, LB 509, § 55.
- 79-947.03. Repealed. Laws 2011, LB 509, § 55.
- 79-947.04. Repealed. Laws 2011, LB 509, § 55.
- 79-947.05. Repealed. Laws 2011, LB 509, § 55.
- 79-947.06. Annual benefit adjustment; cost-of-living adjustment calculation method.
- 79-955. Termination of membership; accumulated contributions; return.
- 79-958. Employee; employer; required deposits and contributions.
- 79-966. School Retirement Fund; state deposits; amount; determination.

**(b) EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS**

- 79-978.01. Act, how cited.
- 79-987. Employees retirement system; audit; cost; report.
- 79-988.01. Transfer of funds by the state.
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- 79-9,117. Board; establish preretirement planning program; for whom; required information; funding; attendance; fee.
- 79-9,118. Participation in retirement system; qualification.

**(a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT****79-901 Act, how cited.**

Sections 79-901 to 79-977.03 shall be known and may be cited as the School Employees Retirement Act.

**Source:** Laws 1991, LB 549, § 23; Laws 1993, LB 292, § 1; Laws 1994, LB 833, § 29; Laws 1995, LB 501, § 4; Laws 1996, LB 700, § 6; Laws 1996, LB 847, § 28; R.S.Supp., 1995, § 79-1501.01; Laws 1996, LB 900, § 536; Laws 1996, LB 1076, § 14; Laws 1997, LB 724, § 2; Laws 1998, LB 532, § 5; Laws 1998, LB 1191, § 44; Laws 2002, LB 407, § 21; Laws 2011, LB509, § 16.

Operative date July 1, 2011.

**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) Beneficiary means any person in receipt of a school retirement allowance or other benefit provided by the act;

(3) Member means any person who has an account in the School Retirement Fund;

(4) 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;

(5) 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. 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, nor service years for which member contributions are withdrawn and not repaid. Creditable service also does not include service rendered by a member 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 or service which the board determines was rendered with the intent to defraud the retirement system;

(6) Disability retirement allowance means the annuity paid to a person upon retirement for disability under section 79-952;

(7) 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;

(8) Fiscal year means any year beginning July 1 and ending June 30 next following;

(9) 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;

(10) 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 and temporary employees shall not be considered school employees;

(11) Prior service means service rendered as a school employee in the public schools of the State of Nebraska prior to July 1, 1945;

(12) 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;

(13) Retirement means qualifying for and accepting a school or disability retirement allowance granted under the School Employees Retirement Act;

(14) Retirement board or board means the Public Employees Retirement Board;

(15) Retirement system means the School Employees Retirement System of the State of Nebraska;

(16) 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;

(17) 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;

(18) 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;

(19) 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;

(20) Service annuity means payments for life, made in equal monthly installments, derived from appropriations made by the State of Nebraska to the retirement system;

(21) State deposit means the deposit by the state in the retirement system on behalf of any member;

(22) 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;

(23) Savings annuity means payments for life, made in equal monthly payments, derived from the accumulated contributions of a member;

(24) Emeritus member means a person (a) who has entered retirement under the provisions of the act, including those persons who have retired since July 1, 1945, under any other regularly established retirement or pension system as contemplated by section 79-916, (b) who has thereafter been reemployed in any capacity by a public school, a Class V school district, or a school under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or a community college board of governors or has become a state school official or county school official subsequent to such retirement, and (c) who has applied to the board for emeritus membership in the retirement system. The school district or agency shall certify to the retirement board on forms prescribed by the retirement board that the annuitant was reemployed, rendered a service, and was paid by the district or agency for such services;

(25) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment. 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. If the lump-sum settlement is made to an estate, the interest rate will be determined by the Moody's Triple A Bond Index as of the prior June 30, rounded to the next lower quarter percent;

(26) 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 an 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 ninety days prior to the effective date of the member's initial benefit;

(27) 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;

(28) Retirement application means the form approved by the retirement system for acceptance of a member's request for either regular or disability retirement;

(29) 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;

(30)(a) Final average compensation means 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.

(b) If a member has such compensation for less than thirty-six months, his or her final average compensation shall be determined by dividing his or her total compensation in all months by the total number of months of his or her creditable service therefor.

(c) 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;

(31) Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

(32) Current benefit means (a) until July 1, 2000, the initial benefit increased by all adjustments made pursuant to section 79-947.02 and (b) on or after July 1, 2000, the initial benefit increased by all adjustments made pursuant to the School Employees Retirement Act;

(33) Initial benefit means the retirement benefit calculated at the time of retirement;

(34) 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;

(35)(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 unused sick leave or unused vacation leave converted to cash payments, (iii) insurance premiums converted into cash payments, (iv) reimbursement for expenses incurred, (v) fringe benefits, (vi) bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, or (vii) beginning on September 4, 2005, employer contributions made for the purposes of separation payments made at retirement and early retirement inducements as provided for in section 79-514.

(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.

(d)(i) For purposes of section 79-934, in the determination of compensation for members on or after July 1, 2005, that part of a member's compensation for the plan year which exceeds the member's compensation with the same employer for the preceding plan year by more than seven percent of the compensation base during the sixty months preceding the member's retirement shall be excluded unless (A) the member experienced a substantial change in

employment position, (B) as verified by the school board, the excess compensation above seven percent occurred as the result of a collective-bargaining agreement between the employer and a recognized collective-bargaining unit or category of school employee, and the percentage increase in compensation above seven percent shall not be excluded for employees outside of a collective-bargaining unit or within the same category of school employee, or (C) the excess compensation occurred as the result of a districtwide permanent benefit change made by the employer for a category of school employee in accordance with subdivision (35)(a)(iv) of this section.

(ii) For purposes of subdivision (35)(d) of this section:

(A) Category of school employee means either all employees of the employer who are administrators or certificated teachers, or all employees of the employer who are not administrators or certificated teachers, or both;

(B) Compensation base means (I) for current members employed with the same employer, the member's compensation for the plan year ending June 30, 2005, or (II) for members newly hired or hired by a separate employer on or after July 1, 2005, the member's compensation for the first full plan year following the member's date of hiring. Thereafter, the member's compensation base shall be increased each plan year by the lesser of seven percent of the member's preceding plan year's compensation base or the member's actual annual compensation increase during the preceding plan year; and

(C) Recognized collective-bargaining unit means a group of employees similarly situated with a similar community of interest appropriate for bargaining recognized as such by a school board.

(e)(i) In the determination of compensation for members on or after July 1, 2012, until July 1, 2013, that part of a member's compensation for the plan year which exceeds the member's compensation with the same employer for the preceding plan year by more than nine percent of the compensation base during the sixty months preceding the member's retirement shall be excluded.

(ii) For purposes of subdivision (35)(e) of this section:

(A) Category of school employee means either all employees of the employer who are administrators or certificated teachers, or all employees of the employer who are not administrators or certificated teachers, or both; and

(B) Compensation base means (I) for current members employed with the same employer, the member's compensation for the plan year ending June 30, 2012, or (II) for members newly hired or hired by a separate employer on or after July 1, 2012, the member's compensation for the first full plan year following the member's date of hiring. Thereafter, the member's compensation base shall be increased each plan year by the lesser of nine percent of the member's preceding plan year's compensation base or the member's actual annual compensation increase during the preceding plan year.

(f)(i) In the determination of compensation for members on or after July 1, 2013, that part of a member's compensation for the plan year which exceeds the member's compensation with the same employer for the preceding plan year by more than eight percent of the compensation base during the sixty months preceding the member's retirement shall be excluded.

(ii) For purposes of subdivision (35)(f) of this section:

(A) Category of school employee means either all employees of the employer who are administrators or certificated teachers, or all employees of the employer who are not administrators or certificated teachers, or both; and

(B) Compensation base means (I) for current members employed with the same employer, the member's compensation for the plan year ending June 30, 2013, or (II) for members newly hired or hired by a separate employer on or after July 1, 2013, the member's compensation for the first full plan year following the member's date of hiring. Thereafter, the member's compensation base shall be increased each plan year by the lesser of eight percent of the member's preceding plan year's compensation base or the member's actual annual compensation increase during the preceding plan year;

(36) Termination of employment occurs on the date on which the member experiences a bona fide separation from service of employment with the member's current employer, the date of which separation is determined by the employer. The employer shall notify the board of the date on which such a termination has occurred. 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 calendar days after ceasing employment unless such service:

- (a) Is voluntary or substitute service provided on an intermittent basis; or
- (b) Is as provided in subsection (2) of section 79-920.

A member shall not be deemed to have terminated employment if the board determines that a purported termination was not a bona fide separation from service with the employer;

(37) Disability means an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or be of a long and indefinite duration;

(38) Substitute employee means a person hired by a public school as a temporary employee to assume the duties of regular employees due to the temporary absence of the 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;

(39) Participation means qualifying for and making required deposits to the retirement system during the course of a plan year;

(40) 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 fifteen or more hours per week. An employee hired as described in this subdivision to provide service for less than fifteen hours per week but who provides service for an average of fifteen hours or more per week in each calendar month of any three calendar months of a plan year shall immediately commence contributions and shall be deemed a regular employee; and

(41) 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.

**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. Operative date July 1, 2011.

#### Cross References

**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.

### **79-903 Retirement system; established; purpose.**

A school retirement system is hereby established for the purpose of providing retirement allowances or other benefits for the school employees of the State of Nebraska as provided in the School Employees Retirement Act. It shall have the powers and privileges of a corporation, insofar as may be necessary to carry out the act, shall be known as the School Employees Retirement System of the State of Nebraska, and by such name shall transact all business as provided in the act.

**Source:** Laws 1945, c. 219, § 2, p. 640; R.S.Supp.,1947, § 79-2902; Laws 1949, c. 256, § 436, p. 842; Laws 1967, c. 486, § 41, p. 1530; Laws 1969, c. 584, § 85, p. 2400; Laws 1969, c. 735, § 2, p. 2777; Laws 1971, LB 987, § 17; Laws 1991, LB 549, § 25; R.S.1943, (1994), § 79-1502; Laws 1996, LB 900, § 538; Laws 2011, LB509, § 18.

Operative date July 1, 2011.

#### Cross References

**For retirement system for employees of Class V school districts**, see the Class V School Employees Retirement Act, section 79-978.01.

### **79-904 School retirement system; administration; retirement board; powers and duties; rules and regulations.**

The general administration of the retirement system, except the investment of funds, is hereby vested in the retirement board. The board shall, by a majority vote of its members, adopt bylaws and adopt and promulgate rules and regulations, from time to time, to carry out the School Employees Retirement Act. The board shall perform such other duties as may be required to execute the act.

**Source:** Laws 1945, c. 219, § 3, p. 640; R.S.Supp.,1947, § 79-2903; Laws 1949, c. 256, § 437, p. 842; Laws 1967, c. 486, § 42, p. 1530; Laws 1969, c. 584, § 86, p. 2400; Laws 1971, LB 987, § 18; Laws 1991, LB 549, § 26; Laws 1995, LB 369, § 5; Laws 1996, LB 847, § 29; R.S.Supp.,1995, § 79-1503; Laws 1996, LB 900, § 539; Laws 2011, LB509, § 19.

Operative date July 1, 2011.

**79-904.01 Board; power to adjust contributions and benefits.**

(1) If the board determines that the retirement system has previously received contributions or distributed benefits which for any reason are not in accordance with the statutory provisions of the School Employees Retirement Act, the board shall refund contributions, require additional contributions, adjust benefits, or require repayment of benefits paid. In the event of an overpayment of a benefit, the board may, in addition to other remedies, offset future benefit payments by the amount of the prior overpayment, together with regular interest thereon. In the event of an underpayment of a benefit, the board shall immediately make payment equal to the deficit amount plus regular interest.

(2) The board shall adopt and promulgate rules and regulations implementing this section, which shall include, but not be limited to, the following: (a) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (b) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment of contributions or benefits; and (c) notice provided to all affected persons. All notices shall be sent prior to an adjustment and shall describe the process for disputing an adjustment of contributions or benefits.

(3) The board shall not refund contributions made on compensation in excess of the limitations imposed by subdivision (35) of section 79-902.

**Source:** Laws 1996, LB 1076, § 30; Laws 2011, LB509, § 20.

Operative date July 1, 2011.

**79-916 Retirement system; membership; member of any other system; transfer of funds; when; Service Annuity Fund; created; use; investment.**

(1)(a) On July 1, 2004, the board shall transfer from the School Retirement Fund to the Service Annuity Fund an amount equal to the funded ratio of the retirement system which is equal to the market value of the retirement system assets divided by the actuarial accrued liability of the retirement system, times the actuarial accrued liability of the service annuity, as determined pursuant to section 79-966.01, of the employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act. Such actuarial accrued liability shall be determined for each employee on a level dollar basis. On or before July 1 of each fiscal year thereafter, the state shall deposit into the Service Annuity Fund such amounts as may be necessary to pay the normal cost and amortize the unfunded actuarial accrued liability of the

service annuity, as determined pursuant to section 79-966.01, as of the end of the previous fiscal year of the employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act. Based on the fiscal year of the retirement system established pursuant to the Class V School Employees Retirement Act, the administrator of such system shall provide all membership information needed for the actuary engaged by the retirement board to determine the normal cost and the amortization payment of the unfunded actuarial accrued liability, as determined pursuant to section 79-966.01, to be paid by the state to the Service Annuity Fund each fiscal year as required by this subdivision.

(b) At the time of retirement of any employee who is a member of the retirement system established pursuant to the Class V School Employees Retirement Act, the retirement board shall, upon receipt of a certification of the administrator of such retirement system of the name, identification number, date of birth, retirement date, last date of employment, type of retirement, and number of years of service credited to such eligible employee at the date of retirement, transfer to such retirement system from the Service Annuity Fund the actuarial accrued liability of the service annuity to be paid by the state to the eligible employee for the years of service thus certified as provided for members of the School Employees Retirement System of the State of Nebraska under sections 79-933 and 79-952. Such transfer of the actuarial accrued liability to the retirement system established pursuant to the Class V School Employees Retirement Act shall be in lieu of the payment of the service annuity to which the employee would be entitled.

(c) The Service Annuity Fund is created. The fund shall consist of the amounts paid by the state and transferred from the School Retirement Fund pursuant to this section to pay the service annuity to be paid by the state to employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act. Any money in the Service Annuity 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 the transfer of the actuarial accrued liability of the service annuity to be paid by the state, the state shall also transfer to the funds of the Class V school district's retirement system an amount determined by multiplying the compensation of all members of such retirement system by the percent specified in subsection (2) of section 79-966 for determining the amount of the state's payment to the School Retirement Fund. The transfer shall be made annually on or before July 1 of each fiscal year.

**Source:** Laws 1945, c. 219, § 12, p. 642; R.S.Supp., 1947, § 79-2912; Laws 1949, c. 256, § 446, p. 845; Laws 1951, c. 292, § 1, p. 970; Laws 1965, c. 530, § 2, p. 1667; Laws 1967, c. 547, § 2, p. 1810; Laws 1967, c. 546, § 5, p. 1802; Laws 1969, c. 735, § 3, p. 2777; Laws 1971, LB 987, § 21; Laws 1984, LB 457, § 1; Laws 1987, LB 549, § 3; Laws 1988, LB 1170, § 2; Laws 1991, LB 549, § 30; R.S. 1943, (1994), § 79-1512; Laws 1996, LB 900, § 551; Laws 1997, LB 623, § 14; Laws 1998, LB 1191, § 48; Laws 2002, LB 407, § 24; Laws 2004, LB 1097, § 23; Laws 2011, LB509, § 21. Operative date July 1, 2011.

## Cross References

Class V School Employees Retirement Act, see section 79-978.01.

Nebraska Capital Expansion Act, see section 72-1269.

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

**79-920 State school official; department employee; retirement system options.**

(1) An individual who was, prior to July 19, 1980, a state school official and did not become a member of the State Employees Retirement System of the State of Nebraska pursuant to the State Employees Retirement Act may, within sixty days after September 1, 1986, elect to become a member of such system. An individual so electing shall pay the contributions required by such system when the service and minimum age requirements have been met.

(2)(a) An individual (i) who is or was previously a school employee or who was employed in an out-of-state or a Class V school district, (ii) who becomes employed by the State Department of Education after July 1, 1989, and (iii) who is a state school official may file with the retirement board within thirty days after employment an election to become or remain a member of the School Employees Retirement System of the State of Nebraska. Employees electing not to participate in the School Employees Retirement System shall participate in the State Employees Retirement System of the State of Nebraska.

(b) An individual shall be required to participate in the State Employees Retirement System if (i) the individual terminated employment from a public school participating in the School Employees Retirement System and retired pursuant to the School Employees Retirement Act and (ii) the employment by the State Department of Education began or will begin within one hundred eighty days after terminating employment from the school.

(3) An employee electing not to be covered by the School Employees Retirement System of the State of Nebraska under this section shall not be subject to section 79-957 but shall be allowed to retain his or her accumulated contribution in the system and continue to become vested in the state's accumulated contribution as well as the State Employees Retirement System of the State of Nebraska according to the following:

(a) The years of participation in the School Employees Retirement System of the State of Nebraska before an election is made plus the years of participation in the State Employees Retirement System of the State of Nebraska after the election is made shall both be credited toward compliance with the service requirements provided under section 79-931; and

(b) The years of participation in the School Employees Retirement System of the State of Nebraska before the election is made plus the years of participation in the State Employees Retirement System of the State of Nebraska after the election is made shall both be credited toward compliance with section 84-1321.

**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.  
Operative date July 1, 2011.

## Cross References

State Employees Retirement Act, see section 84-1331.

**79-926 Retirement system; members; statement of service record; requirements for prior service credit; exception; reemployment; military service; credit; effect.**

(1) Under such rules and regulations as the retirement board adopts and promulgates, 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) Any person who, after having served or signing a contract to serve as a school employee, entered into and served or enters into and serves in the armed forces of the United States during a declared emergency or was drafted under a federal mandatory draft law into the armed forces of the United States during a time of peace, as described and prescribed under such rules and regulations as the retirement board adopts and promulgates, and who, within three calendar years after honorable discharge or honorable separation from active duty or within one year from the date of completion of training provided in the federal Servicemen's Readjustment Act of 1944 or the federal Veterans' Readjustment Assistance Act of 1952, became or becomes a school employee shall be credited, in determining benefits due such member from the retirement system, for a maximum of five years of the time actually served in the armed forces as if such person had been a school employee throughout such time.

(3) Under such rules and regulations as the retirement board adopts and promulgates, any school employee who is reemployed on or after December 12, 1994, 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. The employer shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service.

**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.  
Operative date July 1, 2011.

**79-933.03 Contributing member; credit for service in other schools; limitation; procedure; payment.**

(1) Under such rules and regulations as the board shall adopt and promulgate, a contributing member under contract or employed on July 19, 1996, may receive credit for not to exceed ten years of creditable teaching service rendered in public schools in another state or schools in this state covered by a school retirement system established pursuant to section 79-979, if such member files an application for service credit within three years of membership or reinstatement in the School Employees Retirement System of the State of Nebraska and makes payment into the retirement system of an amount equal to the required deposits he or she would have paid had he or she been employed in this state by a school covered by the retirement system, plus the interest which would have accrued on such amount. Payment must be completed within five years of membership or reinstatement in the retirement system, or prior to termination of employment, whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(2) A member who retires as a school employee of this state shall not receive credit for time in service outside of this state or in a school in this state covered by the school retirement system established pursuant to section 79-979 in excess of the time he or she has been in service as a school employee in this state of a school covered by the School Employees Retirement System of the State of Nebraska. The board shall refund to the member the payments made pursuant to subsection (1) of this section to the extent that the member does not receive credit for such service.

(3) A member who purchases service credit pursuant to this section shall provide such documentation as the board may require to prove that the member has forfeited the receipt of any benefits from the retirement system of the public school in another state or a school in this state covered by a retirement system established pursuant to section 79-979 for the creditable service rendered in such school.

**Source:** Laws 1996, LB 1076, § 22; Laws 1997, LB 623, § 18; Laws 1998, LB 1191, § 51; Laws 1999, LB 703, § 10; Laws 2011, LB509, § 24.

Operative date July 1, 2011.

**79-933.05 Contributing member; credit for service in other schools; limitation; procedure; payment.**

(1) A contributing member may purchase service credit for not to exceed ten years of creditable service rendered in public schools in another state or schools in this state covered by the school retirement system established pursuant to section 79-979. The amount to be paid by the member for such service credit shall equal the actuarial cost to the School Employees Retirement System of the State of Nebraska for allowing such additional service credit to the employee. Payment shall be completed within five years after making the election to purchase service credit or prior to termination of employment,

whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(2) A member who retires as a school employee of this state shall not receive credit for time in service outside of this state or in a school in this state covered by the school retirement system established pursuant to section 79-979 in excess of the time he or she has been in service as a school employee in this state of a school covered by the School Employees Retirement System of the State of Nebraska. The board shall refund to the member the payments made pursuant to this section to the extent that the member does not receive credit for such service.

(3) Compensation for the period of service purchased shall not be included in determining the member's final average compensation.

(4) A member who purchases service credit pursuant to this section shall provide such documentation as the board may require to prove that the member has forfeited the receipt of any benefits from the retirement system of the public school in another state or a school in this state covered by a retirement system established pursuant to section 79-979 for the creditable service rendered in such school.

**Source:** Laws 1996, LB 1076, § 24; Laws 1997, LB 623, § 20; Laws 1998, LB 1191, § 52; Laws 1999, LB 703, § 12; Laws 2001, LB 408, § 15; Laws 2011, LB509, § 25.

Operative date July 1, 2011.

**79-933.06 Contributing member; credit for leave of absence; limitation; procedure; payment.**

(1) Any contributing member may purchase service credit for time he or she was on a leave of absence authorized by the school board or board of education of the school district by which he or she was employed at the time of such leave of absence or pursuant to any contractual agreement entered into by such school district. Such credit shall increase the benefits provided by the retirement system and shall be included in creditable service when determining eligibility for death, disability, termination of employment, and retirement benefits. The amount to be paid by the member for such service credit shall equal the actuarial cost to the retirement system for allowing such additional service credit to the employee. Payment shall be completed within five years after such member's election to purchase service credit or prior to termination of employment, whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(2) Leave of absence shall be construed to include, but not be limited to, sabbaticals, maternity leave, exchange teaching programs, full-time leave as an elected official of a professional association or collective-bargaining unit, or leave of absence to pursue further education or study. Such leave shall not exceed four years in length, and in order to receive credit for the leave of absence the member must return to employment with a school district, other than a Class V school district, in the state within one year after termination of the leave of absence.

(3) Compensation for the period of service purchased shall not be included in determining the member's final average compensation.

**Source:** Laws 1996, LB 1076, § 25; Laws 1997, LB 623, § 21; Laws 1999, LB 703, § 13; Laws 2001, LB 408, § 16; Laws 2002, LB 407, § 30; Laws 2011, LB509, § 26.  
Operative date July 1, 2011.

**79-940 Repealed. Laws 2011, LB 509, § 55.**

Operative date July 1, 2011.

**79-941 Total monthly benefit, defined; how computed.**

For purposes of sections 79-941 to 79-946, unless the context otherwise requires, total monthly benefit means the benefit that would have been received under a monthly life annuity with no refund or death benefit option even though a different option, as provided in section 79-938, has been selected. The total monthly benefit shall be computed as if the person had retired at age sixty-five or at the actual age of retirement, whichever is later.

**Source:** Laws 1980, LB 228, § 2; R.S.1943, (1994), § 79-1559; Laws 1996, LB 900, § 576; Laws 2011, LB509, § 27.  
Operative date July 1, 2011.

**79-942 Supplemental retirement benefit; how computed.**

For each person who qualifies under sections 79-941 to 79-946, the retirement board shall determine the value of the total monthly benefit being received from the School Employees Retirement System of the State of Nebraska or from the retirement system for Class V districts as provided by the Class V School Employees Retirement Act. From one hundred fifty-five dollars, the retirement board shall subtract the total monthly benefit. Such difference, if positive, shall be the supplemental benefit and shall be paid to the retired person each month from the School Retirement Fund, except that if this difference is less than five dollars, a minimum payment of five dollars per month shall be made to such person.

**Source:** Laws 1980, LB 228, § 3; Laws 1981, LB 141, § 2; R.S.1943, (1994), § 79-1560; Laws 1996, LB 900, § 577; Laws 1998, LB 497, § 3; Laws 2004, LB 1097, § 25; Laws 2011, LB509, § 28.  
Operative date July 1, 2011.

**Cross References**

Class V School Employees Retirement Act, see section 79-978.01.

**79-944 Supplemental retirement benefit; receipt by beneficiary.**

If a beneficiary is receiving the annuity provided through the School Employees Retirement System of the State of Nebraska or through the retirement system for Class V districts as provided by the Class V School Employees Retirement Act, the supplemental benefit shall be the benefit that would be computed under section 79-942 had the deceased retired person still been alive.



The beneficiary will continue to receive the supplemental benefit until the expiration of the annuity option selected by the member.

**Source:** Laws 1980, LB 228, § 5; Laws 1981, LB 141, § 4; R.S.1943, (1994), § 79-1562; Laws 1996, LB 900, § 579; Laws 1998, LB 497, § 4; Laws 2011, LB509, § 29.  
Operative date July 1, 2011.

**Cross References**

Class V School Employees Retirement Act, see section 79-978.01.

**79-947 Adjusted supplemental retirement benefit; determination; computation; payment; funding.**

(1) Commencing October 1, 1988, the retirement board shall determine an adjusted supplemental retirement benefit to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement for each person who is retired from the School Employees Retirement System of the State of Nebraska or from the retirement system for Class V school districts as provided by the Class V School Employees Retirement Act with twenty-five or more years of creditable service as of October 1, 1988.

(2) For each person who qualifies under subsection (1) of this section, the retirement board shall determine the value of the total monthly benefit being received from the School Employees Retirement System of the State of Nebraska or from the retirement system for Class V school districts as provided by the Class V School Employees Retirement Act and the supplemental benefit provided by section 79-942 if applicable. From two hundred fifty dollars, the board shall subtract the total monthly benefit. Such difference, if positive, shall be the adjusted supplemental retirement benefit and shall be paid to the retired person each month, except that if this difference is less than five dollars, a minimum payment of five dollars per month shall be made to such person. The adjusted supplemental retirement benefit shall be paid to a retired person during his or her life.

(3) The retirement board may buy a paid-up annuity for a retired person which guarantees the adjusted supplemental retirement benefit provided under this section.

(4) The adjusted supplemental retirement benefit provided under this section shall be funded from the Contingent Account but only from such income that is attributable to employer and employee contributions.

**Source:** Laws 1988, LB 1170, § 21; R.S.1943, (1994), § 79-1566; Laws 1996, LB 900, § 582; Laws 1998, LB 497, § 5; Laws 2002, LB 407, § 33; Laws 2011, LB509, § 30.  
Operative date July 1, 2011.

**Cross References**

Class V School Employees Retirement Act, see section 79-978.01.

**79-947.01 Repealed. Laws 2011, LB 509, § 55.**  
Operative date July 1, 2011.

**79-947.03 Repealed. Laws 2011, LB 509, § 55.**  
Operative date July 1, 2011.

**79-947.04 Repealed. Laws 2011, LB 509, § 55.**

Operative date July 1, 2011.

**79-947.05 Repealed. Laws 2011, LB 509, § 55.**

Operative date July 1, 2011.

**79-947.06 Annual benefit adjustment; cost-of-living adjustment calculation method.**

(1) Beginning July 1, 2011, and each July 1 thereafter, the board shall determine the number of retired members or beneficiaries described in subdivision (4)(b) of this section in the retirement system and an annual benefit adjustment shall be made by the board for each retired member or beneficiary under one of the cost-of-living adjustment calculation methods found in subsection (2), (3), or (4) of this section. Each retired member or beneficiary, if eligible, shall receive an annual benefit adjustment under the cost-of-living adjustment calculation method that provides the retired member or beneficiary the greatest annual benefit adjustment increase. No retired member or beneficiary shall receive an annual benefit adjustment under more than one of the cost-of-living adjustment calculation methods provided in this section.

(2) The current benefit paid to a retired member or beneficiary under this subsection shall be adjusted so that the purchasing power of the benefit being paid is not less than seventy-five percent of the purchasing power of the initial benefit. The purchasing power of the initial benefit in any year following the year in which the initial benefit commenced shall be calculated by dividing the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers factor on June 30 of the current year by the Consumer Price Index for Urban Wage Earners and Clerical Workers factor on June 30 of the year in which the benefit commenced. The result shall be multiplied by the product that results when the amount of the initial benefit is multiplied by seventy-five percent. In any year in which applying the adjustment provided in subsection (3) of this section results in a benefit which would be less than seventy-five percent of the purchasing power of the initial benefit as calculated in this subsection, the adjustment shall instead be equal to the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers factor from the prior year to the current year.

(3) The current benefit paid to a retired member or beneficiary under this subsection shall be increased annually by the lesser of (a) the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between June 30 of the prior year to June 30 of the present year or (b) two and one-half percent.

(4)(a) The current benefit paid to a retired member or beneficiary under this subsection shall be calculated by multiplying the retired member's or beneficiary's total monthly benefit by the lesser of (i) the cumulative change in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the last adjustment of the total monthly benefit of each retired member or beneficiary through June 30 of the year for which the annual benefit adjustment is being calculated or (ii) an amount equal to three percent per annum compounded for the period from the last adjustment of the total monthly benefit of

each retired member or beneficiary through June 30 of the year for which the annual benefit adjustment is being calculated.

(b) In order for a retired member or beneficiary to receive the cost-of-living adjustment calculation method provided in this subsection, the retired member or beneficiary shall be (i) a retired member or beneficiary who has been receiving a retirement benefit for at least five years if the member had at least twenty-five years of creditable service, (ii) a member who has been receiving a disability retirement benefit for at least five years pursuant to section 79-952, or (iii) a beneficiary who has been receiving a death benefit pursuant to section 79-956 for at least five years, if the member's or beneficiary's monthly accrual rate is less than or equal to the minimum accrual rate as determined by this subsection.

(c) The monthly accrual rate under this subsection is the retired member's or beneficiary's total monthly benefit divided by the number of years of creditable service earned by the retired or deceased member.

(d) The total monthly benefit under this subsection is the total benefit received by a retired member or beneficiary pursuant to the School Employees Retirement Act and previous adjustments made pursuant to this section or any other provision of the act that grants a benefit or cost-of-living increase, but the total monthly benefit shall not include sums received by an eligible retired member or eligible beneficiary from federal sources.

(e) The minimum accrual rate under this subsection is twenty-three dollars and thirty-two cents until adjusted pursuant to this subsection. Beginning July 1, 2011, the board shall annually adjust the minimum accrual rate to reflect the cumulative percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the last adjustment of the minimum accrual rate.

(5) Beginning July 1, 2011, and each July 1 thereafter, each retired member or beneficiary shall receive the sum of the annual benefit adjustment and such retiree's total monthly benefit less withholding, which sum shall be the retired member's or beneficiary's adjusted total monthly benefit. Each retired member or beneficiary shall receive the adjusted total monthly benefit until the expiration of the annuity option selected by the member or until the retired member or beneficiary again qualifies for the annual benefit adjustment, whichever occurs first.

(6) The annual benefit adjustment pursuant to this section shall not cause a current benefit to be reduced, and a retired member or beneficiary shall never receive less than the adjusted total monthly benefit until the annuity option selected by the member expires.

(7) The board shall adjust the annual benefit adjustment provided in this section so that the cost-of-living adjustment provided to the retired member or beneficiary at the time of the annual benefit adjustment does not exceed the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board which shall be a reasonable representative measurement of the cost-of-living for retired employees.

(8) The state shall contribute to the Annuity Reserve Fund an annual level dollar payment certified by the board. For the 2011-12 fiscal year through the

2012-13 fiscal year, the annual level dollar payment certified by the board shall equal 81.7873 percent of six million eight hundred ninety-five thousand dollars.

**Source:** Laws 2011, LB509, § 32.  
Operative date July 1, 2011.

**79-955 Termination of membership; accumulated contributions; return.**

Upon termination of employment for any cause other than death or retirement, the retirement board shall, upon the member's demand, terminate his or her membership in the retirement system and cause to be paid to such member the accumulated contributions standing to the credit of his or her individual account in the School Retirement Fund. Any member who attains or has attained membership in another Nebraska state or school retirement system authorized by the Legislature and who elects not to be or remain a member of the School Employees Retirement System of the State of Nebraska shall have his or her accumulated contributions returned to him or her forthwith.

**Source:** Laws 1945, c. 219, § 28, p. 647; R.S.Supp.,1947, § 79-2928; Laws 1949, c. 256, § 461, p. 849; Laws 1965, c. 532, § 1, p. 1676; Laws 1967, c. 555, § 1, p. 1825; Laws 1969, c. 735, § 7, p. 2780; Laws 1976, LB 30, § 3; Laws 1988, LB 1170, § 4; R.S.1943, (1994), § 79-1527; Laws 1996, LB 900, § 590; Laws 1997, LB 624, § 20; Laws 1998, LB 1191, § 56; Laws 2011, LB509, § 31.  
Operative date July 1, 2011.

**79-958 Employee; employer; required deposits and contributions.**

(1) Beginning on September 1, 2009, and ending August 31, 2011, for the purpose of providing the funds to pay for formula annuities, every employee shall be required to deposit in the School Retirement Fund eight and twenty-eight hundredths percent of compensation. Beginning on September 1, 2011, and ending August 31, 2012, for the purpose of providing the funds to pay for formula annuities, every employee shall be required to deposit in the School Retirement Fund eight and eighty-eight hundredths percent of compensation. Beginning on September 1, 2012, and ending August 31, 2017, for the purpose of providing the funds to pay for formula annuities, every employee shall be required to deposit in the School Retirement Fund nine and seventy-eight hundredths percent of compensation. Beginning on September 1, 2017, for the purpose of providing the funds to pay for formula annuities, every employee shall be required to deposit in the School Retirement Fund seven and twenty-eight hundredths percent of compensation. Such deposits shall be transmitted at the same time and in the same manner as required employer contributions.

(2) For the purpose of providing the funds to pay for formula annuities, every employer shall be required to deposit in the School Retirement Fund one hundred one percent of the required contributions of the school employees of each employer. Such deposits shall be transmitted to the retirement board at the same time and in the same manner as such required employee contributions.

(3) The employer shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1986, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code as defined in section 49-801.01, except that the employer shall continue to withhold

federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The employer shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The employer shall pick up these contributions by a compensation deduction through a reduction in the cash compensation of the member. Member contributions picked up shall be treated for all purposes of the School Employees Retirement Act in the same manner and to the same extent as member contributions made prior to the date picked up.

(4) The employer shall pick up the member contributions made through irrevocable payroll deduction authorizations pursuant to sections 79-921, 79-933.03 to 79-933.06, and 79-933.08, and the contributions so picked up shall be treated as employer contributions in the same manner as contributions picked up under subsection (3) of this section.

**Source:** Laws 1945, c. 219, § 32, p. 649; R.S.Supp.,1947, § 79-2932; Laws 1949, c. 256, § 465, p. 851; Laws 1951, c. 291, § 6, p. 968; Laws 1959, c. 414, § 2, p. 1388; Laws 1967, c. 546, § 9, p. 1806; Laws 1971, LB 987, § 24; Laws 1984, LB 457, § 3; Laws 1985, LB 353, § 3; Laws 1986, LB 325, § 11; Laws 1988, LB 160, § 4; Laws 1988, LB 1170, § 6; Laws 1991, LB 549, § 39; Laws 1994, LB 833, § 33; Laws 1995, LB 574, § 80; Laws 1996, LB 700, § 10; R.S.Supp.,1995, § 79-1531; Laws 1996, LB 900, § 593; Laws 1997, LB 623, § 27; Laws 1998, LB 1191, § 57; Laws 2001, LB 408, § 17; Laws 2002, LB 407, § 35; Laws 2005, LB 503, § 10; Laws 2007, LB596, § 2; Laws 2009, LB187, § 1; Laws 2011, LB382, § 1.

Effective date May 5, 2011.

**79-966 School Retirement Fund; state deposits; amount; determination.**

(1) On the basis of all data in the possession of the retirement board, including such mortality and other tables as are recommended by the actuary engaged by the retirement board and adopted by the retirement board, the retirement board shall annually, on or before July 1, determine the state deposit to be made by the state in the School Retirement Fund for that fiscal year. The amount of such state deposit shall be determined pursuant to section 79-966.01. The retirement board shall thereupon certify the amount of such state deposit, and on the warrant of the Director of Administrative Services, the State Treasurer shall, as of July 1 of such year, transfer from funds appropriated by the state for that purpose to the School Retirement Fund the amount of such state deposit.

(2) In addition to the state deposits required by subsections (1) and (3) of this section, the state shall deposit in the School Retirement Fund an amount equal to seven-tenths of one percent of the compensation of all members of the retirement system for each fiscal year on or after July 1, 1984, until July 1, 2009. For each fiscal year beginning July 1, 2009, until July 1, 2017, in addition to the state deposits required by subsections (1) and (3) of this section, the state shall deposit in the School Retirement Fund an amount equal to one percent of the compensation of all members of the retirement system. For each fiscal year beginning July 1, 2017, in addition to the state deposits required by subsections

(1) and (3) of this section, the state shall deposit in the School Retirement Fund an amount equal to seven-tenths of one percent of the compensation of all members of the retirement system.

(3) In addition to the state deposits required by subsections (1) and (2) of this section, beginning on July 1, 2005, and each fiscal year thereafter, the state shall deposit in the Service Annuity Fund such amounts as may be necessary to pay the normal cost and amortize the unfunded actuarial accrued liability of the service annuity benefit established pursuant to sections 79-933 and 79-952 as accrued through the end of the previous fiscal year of the school employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act.

**Source:** Laws 1945, c. 219, § 41, p. 651; R.S.Supp.,1947, § 79-2941; Laws 1949, c. 256, § 474, p. 853; Laws 1965, c. 530, § 4, p. 1668; Laws 1969, c. 735, § 12, p. 2782; Laws 1971, LB 987, § 25; Laws 1981, LB 248, § 3; Laws 1984, LB 457, § 5; Laws 1988, LB 1170, § 10; R.S.1943, (1994), § 79-1540; Laws 1996, LB 900, § 601; Laws 2002, LB 407, § 39; Laws 2004, LB 1097, § 29; Laws 2009, LB187, § 2; Laws 2011, LB382, § 2.  
Effective date May 5, 2011.

**Cross References**

Class V School Employees Retirement Act, see section 79-978.01.

**(b) EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS**

**79-978.01 Act, how cited.**

Sections 79-978 to 79-9,118 shall be known and may be cited as the Class V School Employees Retirement Act.

**Source:** Laws 1998, LB 497, § 7; Laws 2011, LB509, § 33.  
Operative date July 1, 2011.

**79-987 Employees retirement system; audit; cost; report.**

(1) An annual audit of the affairs of the retirement system shall be conducted. At the option of the board, such audit may be conducted by a certified public accountant or the Auditor of Public Accounts. The costs of such audit shall be paid from funds of the retirement system. A copy of such audit shall be filed with the Auditor of Public Accounts.

(2) Beginning March 31, 2012, and each March 31 thereafter, if such retirement plan is a defined benefit plan, the trustees of a retirement system established pursuant to section 79-979 shall cause to be prepared an annual report and the administrator shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of such report. The report shall consist of a full actuarial analysis of each such retirement plan established pursuant to section 79-979. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan.

**Source:** Laws 1951, c. 274, § 19, p. 921; Laws 1973, LB 215, § 1; R.S.1943, (1994), § 79-1050; Laws 1996, LB 900, § 622; Laws

1998, LB 1191, § 61; Laws 1999, LB 795, § 13; Laws 2001, LB 711, § 9; Laws 2006, LB 1019, § 10; Laws 2011, LB509, § 34.  
Operative date July 1, 2011.

**79-988.01 Transfer of funds by the state.**

Through the 2013-14 fiscal year, in addition to the transfers pursuant to section 79-916, the state shall transfer to the funds of each retirement system provided for in the Class V School Employees Retirement Act an amount equal to 14.11604 percent of six million eight hundred ninety-five thousand dollars.

**Source:** Laws 1996, LB 700, § 4; Laws 1998, LB 497, § 14; Laws 2011, LB382, § 3.

Effective date May 5, 2011.

**79-9,113 Employees retirement system; federal Social Security Act; state retirement plan; how affected; required contributions; payment; membership service annuity; computations.**

(1)(a) If, at any future time, a majority of the eligible members of the retirement system votes to be included under an agreement providing old age and survivors insurance under the Social Security Act of the United States, the contributions to be made by the member and the school district for membership service, from and after the effective date of the agreement with respect to services performed subsequent to December 31, 1954, shall each be reduced from five to three percent but not less than three percent of the member's salary per annum, and the credits for membership service under this system, as provided in section 79-999, shall thereafter be reduced from one and one-half percent to nine-tenths of one percent and not less than nine-tenths of one percent of salary or wage earned by the member during each fiscal year, and from one and sixty-five hundredths percent to one percent and not less than one percent of salary or wage earned by the member during each fiscal year and from two percent to one and two-tenths percent of salary or wage earned by the member during each fiscal year, and from two and four-tenths percent to one and forty-four hundredths percent of salary or wage earned by the member during each fiscal year, except that after September 1, 1963, and prior to September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-fourths percent of salary covered by old age and survivors insurance, and five percent above that amount. Commencing September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-fourths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five percent of salary or wages earned above that amount in the same fiscal year. Commencing September 1, 1976, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and nine-tenths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five and twenty-five hundredths percent of salary or wages earned above that amount in the same fiscal year. Commencing on September 1, 1982, all employees of the school district shall contribute an amount equal to the membership contribution which shall be four and nine-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1989, all employees of the school district shall contribute an amount equal to the membership contribution which shall be five

and eight-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1995, all employees of the school district shall contribute an amount equal to the membership contribution which shall be six and three-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 2007, all employees of the school district shall contribute an amount equal to the membership contribution which shall be seven and three-tenths percent of the compensation paid in each fiscal year. Commencing September 1, 2009, all employees of the school district shall contribute an amount equal to the membership contribution which shall be eight and three-tenths percent of the compensation paid in each fiscal year. Commencing September 1, 2011, all employees of the school district shall contribute an amount equal to the membership contribution which shall be nine and three-tenths percent of the compensation paid in each fiscal year.

(b) The contributions by the school district in any fiscal year beginning on or after September 1, 1999, shall be the greater of (i) one hundred percent of the contributions by the employees for such fiscal year or (ii) such amount as may be necessary to maintain the solvency of the system, as determined annually by the board upon recommendation of the actuary and the trustees.

(c) The contributions by the school district in any fiscal year beginning on or after September 1, 2007, shall be the greater of (i) one hundred one percent of the contributions by the employees for such fiscal year or (ii) such amount as may be necessary to maintain the solvency of the system, as determined annually by the board upon recommendation of the actuary and the trustees.

(d) The employee's contribution shall be made in the form of a monthly deduction from compensation as provided in subsection (2) of this section. Every employee who is a member of the system shall be deemed to consent and agree to such deductions and shall receipt in full for compensation, and payment to such employee of compensation less such deduction shall constitute a full and complete discharge of all claims and demands whatsoever for services rendered by such employee during the period covered by such payment except as to benefits provided under the Class V School Employees Retirement Act.

(e) After September 1, 1963, and prior to September 1, 1969, all employees shall be credited with a membership service annuity which shall be nine-tenths of one percent of salary or wage covered by old age and survivors insurance and one and one-half percent of salary or wages above that amount, except that those employees who retire on or after August 31, 1969, shall be credited with a membership service annuity which shall be one percent of salary or wages covered by old age and survivors insurance and one and sixty-five hundredths percent of salary or wages above that amount for service performed after September 1, 1963, and prior to September 1, 1969. Commencing September 1, 1969, all employees shall be credited with a membership service annuity which shall be one percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during each fiscal year and one and sixty-five hundredths percent of salary or wages earned above that amount in the same fiscal year, except that all employees retiring on or after August 31, 1976, shall be credited with a membership service annuity which shall be one and forty-four hundredths percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during such fiscal year and two and four-tenths percent of salary or wages earned above that amount in the same fiscal year, and the retirement annuities of employees who have not retired



prior to September 1, 1963, and who elected under the provisions of section 79-988 as such section existed immediately prior to February 20, 1982, not to become members of the system shall not be less than they would have been had they remained under any preexisting system to date of retirement.

(f) Members of this system having the service qualifications of members of the School Employees Retirement System of the State of Nebraska, as provided by section 79-926, shall receive the state service annuity provided by sections 79-933 to 79-935 and 79-951.

(2) The school district shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The school district shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The school district shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Beginning September 1, 1995, the school district shall also pick up any contributions required by sections 79-990, 79-991, and 79-992 which are made under an irrevocable payroll deduction authorization between the member and the school district, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to withhold federal and state income taxes based upon these contributions until the Internal Revenue Service rules that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed from the system. Employee contributions picked up shall be treated for all purposes of the Class V School Employees Retirement Act in the same manner and to the extent as employee contributions made prior to the date picked up.

**Source:** Laws 1951, c. 274, § 25, p. 923; Laws 1953, c. 308, § 4, p. 1029; Laws 1955, c. 321, § 3, p. 993; Laws 1963, c. 490, § 5, p. 1567; Laws 1969, c. 724, § 2, p. 2755; Laws 1972, LB 1116, § 3; Laws 1976, LB 994, § 3; Laws 1982, LB 131, § 12; Laws 1983, LB 488, § 1; Laws 1984, LB 218, § 3; Laws 1989, LB 237, § 7; Laws 1995, LB 505, § 8; Laws 1995, LB 574, § 77; R.S.Supp., 1995, § 79-1056; Laws 1996, LB 900, § 648; Laws 1997, LB 623, § 33; Laws 1998, LB 497, § 26; Laws 1998, LB 1191, § 63; Laws 2000, LB 155, § 5; Laws 2007, LB596, § 3; Laws 2009, LB187, § 3; Laws 2011, LB382, § 4; Laws 2011, LB509, § 35.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB382, section 4, with LB509, section 35, to reflect all amendments.

**Note:** Changes made by LB382 became effective May 5, 2011. Changes made by LB509 became operative July 1, 2011.

#### Cross References

For provisions of federal Social Security Act, see Chapter 68, article 6.

**79-9,117 Board; establish preretirement planning program; for whom; required information; funding; attendance; fee.**

(1) The board shall establish a comprehensive preretirement planning program for school employees who are members of the retirement system. The program shall provide information and advice regarding the many changes employees face upon retirement, including, but not limited to, changes in physical and mental health, housing, family life, leisure activity, and retirement income.

(2) The preretirement planning program shall be available to all employees who have attained the age of fifty years or are within five years of qualifying for retirement or early retirement under their retirement systems.

(3) The preretirement planning program shall include information on the federal and state income tax consequences of the various annuity or retirement benefit options available to the employee, information on social security benefits, information on various local, state, and federal government programs and programs in the private sector designed to assist elderly persons, and information and advice the board deems valuable in assisting employees in the transition from public employment to retirement.

(4) The board shall work with any governmental agency, including political subdivisions or bodies whose services or expertise may enhance the development or implementation of the preretirement planning program.

(5) The costs of the preretirement planning program shall be charged back to the retirement system.

(6) The employer shall provide each eligible employee leave with pay to attend up to two preretirement planning programs. For purposes of this subsection, leave with pay means a day off paid by the employer and does not mean vacation, sick, personal, or compensatory time. An employee may choose to attend a program more than twice, but such leave shall be at the expense of the employee and shall be at the discretion of the employer. An eligible employee shall not be entitled to attend more than one preretirement planning program per fiscal year prior to actual election of retirement.

(7) A nominal registration fee shall be charged each person attending a preretirement planning program to cover the costs for meals, meeting rooms, or other expenses incurred under such program.

**Source:** Laws 2011, LB509, § 36.  
Operative date July 1, 2011.

**79-9,118 Participation in retirement system; qualification.**

On and after July 1, 2011, no employee shall be authorized to participate in the retirement system unless the employee (1) is a United States citizen or (2) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

**Source:** Laws 2011, LB509, § 37.  
Operative date July 1, 2011.

**SCHOOL TAXATION, FINANCE, AND FACILITIES**

**ARTICLE 10**

**SCHOOL TAXATION, FINANCE, AND FACILITIES**

(a) TAX EQUITY AND EDUCATIONAL OPPORTUNITIES SUPPORT ACT

Section

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- 79-1044. Forest reserve funds; distribution to counties entitled for schools and roads; how made.  
79-1047. Public grazing funds; distribution to counties; how made.  
79-1051. Flood control funds; apportionment to counties by Commissioner of Education.

Section

## (d) SCHOOL BUDGETS AND ACCOUNTING

79-1083.03. Repealed. Laws 2011, LB 235, § 26.

## (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.

**Note:** Changes made by LB18 became effective February 11, 2011. Changes made by LB235 became effective April 27, 2011.

**79-1003 Terms, defined.**

For purposes of the Tax Equity and Educational Opportunities Support Act:

(1) Adjusted general fund operating expenditures means (a) for school fiscal years 2010-11 through 2012-13, the difference of the general fund operating expenditures as calculated pursuant to subdivision (22) of this section increased by, or for aid calculated for school fiscal year 2010-11 multiplied by, the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, elementary class size allowance, summer school allowance, instructional time allowance, teacher education allowance, and focus school and program allowance, and (b) for school fiscal year 2013-14 and each school fiscal year thereafter, the difference of the general fund operating expenditures as calculated pursuant to subdivision (22) of this section increased by the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, summer school allowance, instructional time allowance, teacher education allowance, and focus school and program allowance;

(2) Adjusted valuation means the assessed valuation of taxable property of each local system in the state, adjusted pursuant to the adjustment factors described in section 79-1016. Adjusted valuation means the adjusted valuation for the property tax year ending during the school fiscal year immediately preceding the school fiscal year in which the aid based upon that value is to be paid. For purposes of determining the local effort rate yield pursuant to section 79-1015.01, adjusted valuation does not include the value of any property which a court, by a final judgment from which no appeal is taken, has declared to be nontaxable or exempt from taxation;

(3) Allocated income tax funds means the amount of assistance paid to a local system pursuant to section 79-1005.01 as adjusted by the minimum levy adjustment pursuant to section 79-1008.02;

(4) Average daily membership means the average daily membership for grades kindergarten through twelve attributable to the local system, as provided in each district's annual statistical summary, and includes the proportionate share of students enrolled in a public school instructional program on less than a full-time basis;

(5) Base fiscal year means the first school fiscal year following the school fiscal year in which the reorganization or unification occurred;

(6) Board means the school board of each school district;

(7) Categorical funds means funds limited to a specific purpose by federal or state law, including, but not limited to, Title I funds, Title VI funds, federal vocational education funds, federal school lunch funds, Indian education funds, Head Start funds, and funds from the Education Innovation Fund. Categorical funds does not include funds received pursuant to section 79-1028.02 or 79-1028.04;

(8) Consolidate means to voluntarily reduce the number of school districts providing education to a grade group and does not include dissolution pursuant to section 79-498;

(9) Converted contract means an expired contract that was in effect for at least fifteen school years beginning prior to school year 2012-13 for the education of students in a nonresident district in exchange for tuition from the resident district when the expiration of such contract results in the nonresident district educating students, who would have been covered by the contract if the contract were still in effect, as option students pursuant to the enrollment option program established in section 79-234;

(10) Converted contract option student means a student who will be an option student pursuant to the enrollment option program established in section 79-234 for the school fiscal year for which aid is being calculated and who would have been covered by a converted contract if the contract were still in effect and such school fiscal year is the first school fiscal year for which such contract is not in effect;

(11) Department means the State Department of Education;

(12) District means any Class I, II, III, IV, V, or VI school district and, beginning with the calculation of state aid for school fiscal year 2011-12 and each school fiscal year thereafter, a unified system as defined in section 79-4,108;

(13) Ensuing school fiscal year means the school fiscal year following the current school fiscal year;

(14) Equalization aid means the amount of assistance calculated to be paid to a local system pursuant to sections 79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022, 79-1022.02, 79-1028.02, and 79-1028.04;

(15) Fall membership means the total membership in kindergarten through grade twelve attributable to the local system as reported on the fall school district membership reports for each district pursuant to section 79-528;

(16) Fiscal year means the state fiscal year which is the period from July 1 to the following June 30;

(17) Formula students means:

(a) For state aid certified pursuant to section 79-1022, the sum of the product of fall membership from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid multiplied by the average ratio of average daily membership to fall membership for the second school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and the prior two school fiscal years plus sixty percent of the qualified early childhood education fall membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which aid is to be paid minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the fall membership multiplied by 0.5; and

(b) For the final calculation of state aid pursuant to section 79-1065, the sum of average daily membership plus sixty percent of the qualified early childhood education average daily membership plus tuitioned students minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the average daily membership multiplied by 0.5 from the school fiscal year immediately preceding the school fiscal year in which aid was paid;

(18) Free lunch and free milk student means a student who qualified for free lunches or free milk from the most recent data available on November 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be paid;

(19) Full-day kindergarten means kindergarten offered by a district for at least one thousand thirty-two instructional hours;

(20) General fund budget of expenditures means the total budget of disbursements and transfers for general fund purposes as certified in the budget statement adopted pursuant to the Nebraska Budget Act, except that for purposes of the limitation imposed in section 79-1023 and the calculation pursuant to subdivision (2) of section 79-1027.01, the general fund budget of expenditures does not include any special grant funds, exclusive of local matching funds, received by a district;

(21) General fund expenditures means all expenditures from the general fund;

(22) General fund operating expenditures means:

(a) For state aid calculated for school fiscal years 2010-11 and 2011-12, as reported on the annual financial report for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (i) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, federal impact aid, and levy override elections pursuant to section 77-3444, (ii) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, (iii) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, (iv)

any legal expenses in excess of fifteen-hundredths of one percent of the formula need for the school fiscal year in which the expenses occurred, (v) expenditures to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination occurring prior to July 1, 2009, and (vi)(A) expenditures in school fiscal years 2009-10 through 2013-14 to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent or (B) expenditures in school fiscal years 2009-10 through 2013-14 to pay for school district contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to the retirement system established pursuant to the Class V School Employees Retirement Act to the extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent; and

(b) For state aid calculated for school fiscal years 2012-13 and each school fiscal year thereafter, as reported on the annual financial report for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (i) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, federal impact aid, and levy override elections pursuant to section 77-3444, (ii) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, (iii) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, (iv) any legal expenses in excess of fifteen-hundredths of one percent of the formula need for the school fiscal year in which the expenses occurred, (v) expenditures to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination occurring prior to July 1, 2009, or occurring on or after the last day of the 2010-11 school year and prior to the first day of the 2013-14 school year, (vi)(A) expenditures in school fiscal years 2009-10 through 2016-17 to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Employees Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent or (B) expenditures in school fiscal years 2009-10 through 2016-17 to pay for school district contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to the retirement system established pursuant to the Class V School Employees Retirement Act to the extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent, and (vii) any amounts paid by the district for lobbyist fees and expenses reported to the Clerk of the Legislature pursuant to section 49-1483.

For purposes of this subdivision (22) of this section, receipts from levy override elections shall equal ninety-nine percent of the difference of the total general fund levy minus a levy of one dollar and five cents per one hundred dollars of taxable valuation multiplied by the assessed valuation for school districts that have voted pursuant to section 77-3444 to override the maximum levy provided pursuant to section 77-3442;

(23) High school district means a school district providing instruction in at least grades nine through twelve;

(24) Income tax liability means the amount of the reported income tax liability for resident individuals pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;

(25) Income tax receipts means the amount of income tax collected pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;

(26) Limited English proficiency students means the number of students with limited English proficiency in a district from the most recent data available on November 1 of the school fiscal year preceding the school fiscal year in which aid is to be paid plus the difference of such students with limited English proficiency minus the average number of limited English proficiency students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero;

(27) Local system means a learning community for purposes of calculation of state aid for the second full school fiscal year after becoming a learning community and each school fiscal year thereafter, a unified system, a Class VI district and the associated Class I districts, or a Class II, III, IV, or V district and any affiliated Class I districts or portions of Class I districts. The membership, expenditures, and resources of Class I districts that are affiliated with multiple high school districts will be attributed to local systems based on the percent of the Class I valuation that is affiliated with each high school district;

(28) Low-income child means a child under nineteen years of age living in a household having an annual adjusted gross income for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated equal to or less than the maximum household income that would allow a student from a family of four people to be a free lunch and free milk student during the school fiscal year immediately preceding the school fiscal year for which aid is being calculated;

(29) Low-income students means the number of low-income children within the district multiplied by the ratio of the formula students in the district divided by the total children under nineteen years of age residing in the district as derived from income tax information;

(30) Most recently available complete data year means the most recent single school fiscal year for which the annual financial report, fall school district membership report, annual statistical summary, Nebraska income tax liability by school district for the calendar year in which the majority of the school fiscal year falls, and adjusted valuation data are available;

(31) Poverty students means the number of low-income students or the number of students who are free lunch and free milk students in a district plus the difference of the number of low-income students or the number of students who are free lunch and free milk students in a district, whichever is greater,



minus the average number of poverty students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero;

(32) Qualified early childhood education average daily membership means the product of the average daily membership for school fiscal year 2006-07 and each school fiscal year thereafter of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the actual instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

(33) Qualified early childhood education fall membership means the product of membership on the last Friday in September 2006 and each year thereafter of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the planned instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

(34) Regular route transportation means the transportation of students on regularly scheduled daily routes to and from the attendance center;

(35) Reorganized district means any district involved in a consolidation and currently educating students following consolidation;

(36) School year or school fiscal year means the fiscal year of a school district as defined in section 79-1091;

(37) Sparse local system means a local system that is not a very sparse local system but which meets the following criteria:

(a)(i) Less than two students per square mile in the county in which each high school is located, based on the school district census, (ii) less than one formula student per square mile in the local system, and (iii) more than ten miles between each high school attendance center and the next closest high school attendance center on paved roads;

(b)(i) Less than one and one-half formula students per square mile in the local system and (ii) more than fifteen miles between each high school attendance center and the next closest high school attendance center on paved roads;

(c)(i) Less than one and one-half formula students per square mile in the local system and (ii) more than two hundred seventy-five square miles in the local system; or

(d)(i) Less than two formula students per square mile in the local system and (ii) the local system includes an area equal to ninety-five percent or more of the

square miles in the largest county in which a high school attendance center is located in the local system;

(38) Special education means specially designed kindergarten through grade twelve instruction pursuant to section 79-1125, and includes special education transportation;

(39) Special grant funds means the budgeted receipts for grants, including, but not limited to, categorical funds, reimbursements for wards of the court, short-term borrowings including, but not limited to, registered warrants and tax anticipation notes, interfund loans, insurance settlements, and reimbursements to county government for previous overpayment. The state board shall approve a listing of grants that qualify as special grant funds;

(40) State aid means the amount of assistance paid to a district pursuant to the Tax Equity and Educational Opportunities Support Act;

(41) State board means the State Board of Education;

(42) State support means all funds provided to districts by the State of Nebraska for the general fund support of elementary and secondary education;

(43) Statewide average basic funding per formula student means the statewide total basic funding for all districts divided by the statewide total formula students for all districts;

(44) Statewide average general fund operating expenditures per formula student means the statewide total general fund operating expenditures for all districts divided by the statewide total formula students for all districts;

(45) Teacher has the definition found in section 79-101;

(46) Temporary aid adjustment factor means (a) for school fiscal years before school fiscal year 2007-08, one and one-fourth percent of the sum of the local system's transportation allowance, the local system's special receipts allowance, and the product of the local system's adjusted formula students multiplied by the average formula cost per student in the local system's cost grouping and (b) for school fiscal year 2007-08, one and one-fourth percent of the sum of the local system's transportation allowance, special receipts allowance, and distance education and telecommunications allowance and the product of the local system's adjusted formula students multiplied by the average formula cost per student in the local system's cost grouping;

(47) Tuition receipts from converted contracts means tuition receipts received by a district from another district in the most recently available complete data year pursuant to a converted contract prior to the expiration of the contract;

(48) Tuitioned students means students in kindergarten through grade twelve of the district whose tuition is paid by the district to some other district or education agency; and

(49) Very sparse local system means a local system that has:

(a)(i) Less than one-half student per square mile in each county in which each high school attendance center is located based on the school district census, (ii) less than one formula student per square mile in the local system, and (iii) more than fifteen miles between the high school attendance center and the next closest high school attendance center on paved roads; or

(b)(i) More than four hundred fifty square miles in the local system, (ii) less than one-half student per square mile in the local system, and (iii) more than

fifteen miles between each high school attendance center and the next closest high school attendance center on paved roads.

**Source:** Laws 1990, LB 1059, § 3; Laws 1991, LB 511, § 71; Laws 1992, LB 245, § 76; Laws 1994, LB 1290, § 3; Laws 1995, LB 840, § 4; R.S.Supp., 1995, § 79-3803; Laws 1996, LB 900, § 654; Laws 1996, LB 1050, § 12; Laws 1997, LB 347, § 29; Laws 1997, LB 710, § 5; Laws 1997, LB 713, § 1; Laws 1997, LB 806, § 31; Laws 1998, LB 306, § 42; Laws 1998, LB 1134, § 2; Laws 1998, LB 1219, § 15; Laws 1998, LB 1229, § 3; Laws 1998, Spec. Sess., LB 1, § 15; Laws 1999, LB 149, § 3; Laws 1999, LB 813, § 19; Laws 2001, LB 313, § 1; Laws 2001, LB 797, § 18; Laws 2001, LB 833, § 4; Laws 2002, LB 898, § 3; Laws 2005, LB 126, § 45; Laws 2005, LB 577, § 1; Laws 2006, LB 1024, § 73; Laws 2006, LB 1208, § 4; Referendum 2006, No. 422; Laws 2007, LB641, § 13; Laws 2008, LB988, § 9; Laws 2009, LB545, § 4; Laws 2009, LB549, § 26; Laws 2009, First Spec. Sess., LB5, § 3; Laws 2010, LB1071, § 12; Laws 2011, LB18, § 2; Laws 2011, LB235, § 5; Laws 2011, LB382, § 5; Laws 2011, LB509, § 38.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB18, section 2, with LB235, section 5, LB382, section 5, and LB509, section 38, to reflect all amendments.

**Note:** Changes made by LB18 became effective February 11, 2011. Changes made by LB235 became effective April 27, 2011. Changes made by LB382 became effective May 5, 2011. Changes made by LB509 became operative July 1, 2011.

#### Cross References

**Class V School Employees Retirement Act**, see section 79-978.01.

**Nebraska Budget Act**, see section 13-501.

**Nebraska Revenue Act of 1967**, see section 77-2701.

### **79-1003.01 Summer school allowance; summer school student units; calculations.**

(1) The department shall calculate a summer school allowance for each district which submits the information required for the calculation on a form prescribed by the department on or before October 15 of the school fiscal year preceding the school fiscal year for which aid is being calculated. A summer school allowance shall be equal to two and one-half percent of the summer school student units for such district multiplied by eighty-five percent of the statewide average general fund operating expenditures per formula student.

(2) Summer school student units shall be calculated for each student enrolled in summer school as defined in section 79-536 in a school district who attends such summer school for at least twelve days in the most recently available complete data year, whether or not the student is in the membership of the school district. The initial number of units for each such student shall equal the sum of the ratios, each rounded down to the nearest whole number, of the number of days for which the student attended summer school classes in such district for at least three hours and less than six hours per day divided by twelve days and of two times the number of days for which the student attended summer school classes in such district for six or more hours per day divided by twelve days.

(3) Each school district shall receive an additional summer school student unit for each summer school student unit attributed to remedial math or reading programs. Each school district shall also receive an additional summer school student unit for each summer school student unit attributed to a free lunch and free milk student.

(4) Beginning with state aid calculated for school fiscal year 2012-13, summer school student units shall be calculated for each student who was both enrolled in the most recently available complete data year in a summer session of an early childhood education program for which a qualified early childhood education fall membership greater than zero has been calculated for the school fiscal year for which aid is being calculated and eligible to attend kindergarten in the fall immediately following such summer session. The initial number of units for each such early childhood education student shall equal the sum of the ratios, each rounded down to the nearest whole number, of the number of days for which the student attended the summer session in such district for at least three hours and less than six hours per day divided by twelve days and of two times the number of days for which the student attended the summer session in such district for six or more hours per day divided by twelve days. The initial summer school student units for early childhood education students shall be multiplied by six-tenths. Instructional hours included in the calculation of the qualified early childhood education fall membership or the qualified early childhood education average daily membership shall not be included in the calculation of the summer school allowance.

(5) Each school district shall receive an additional six-tenths of a summer school student unit for each early childhood education student unit attributed to a free lunch and free milk early childhood education student.

(6) This section does not prevent school districts from requiring and collecting fees for summer school or summer sessions of early childhood education programs, except that summer school student units shall not be calculated for school districts which collect fees for summer school from students who qualify for free or reduced-price lunches under United States Department of Agriculture child nutrition programs.

**Source:** Laws 2007, LB641, § 14; Laws 2008, LB988, § 10; Laws 2010, LB1071, § 13; Laws 2011, LB235, § 6.  
Effective date April 27, 2011.

**79-1005.01 Tax Commissioner; certify data; department; calculate allocation percentage and local system's allocated income tax funds.**

(1) An amount equal to the amount appropriated to the School District Income Tax Fund for distribution in school fiscal year 1992-93 shall be disbursed as option payments as determined under section 79-1009 and as allocated income tax funds as determined in this section and sections 79-1008.01, 79-1015.01, 79-1017.01, and 79-1018.01, except as provided in section 79-1008.02. Funds not distributed as allocated income tax funds due to minimum levy adjustments shall not increase the amount available to local systems for distribution as allocated income tax funds.

(2) Not later than November 15 of each year, the Tax Commissioner shall certify to the department for the preceding tax year the income tax liability of resident individuals for each local system. The 1996 income tax liability of resident individuals of Class I districts that are affiliated with multiple high school districts shall be divided between local systems based on the percentage of the Class I district's valuation affiliated with each high school district.

(3) Using the data certified by the Tax Commissioner pursuant to subsection (2) of this section, the department shall calculate the allocation percentage and each local system's allocated income tax funds. The allocation percentage shall

be an amount equal to the amount appropriated to the School District Income Tax Fund for distribution in school fiscal year 1992-93 minus the total amount paid for option students pursuant to section 79-1009 and (a) for aid calculated for school fiscal year 2010-11, minus twenty million dollars and (b) for aid calculated for school fiscal years 2011-12 and 2012-13, minus twenty-one million dollars with the difference divided by the aggregate statewide income tax liability of all resident individuals certified pursuant to subsection (2) of this section. Each local system's allocated income tax funds shall be calculated by multiplying the allocation percentage times the local system's income tax liability certified pursuant to subsection (2) of this section.

**Source:** Laws 1997, LB 806, § 33; Laws 1998, Spec. Sess., LB 1, § 16; Laws 1999, LB 149, § 4; Laws 2002, LB 898, § 4; Laws 2004, LB 1093, § 2; Laws 2008, LB988, § 11; Laws 2009, First Spec. Sess., LB5, § 4; Laws 2011, LB235, § 7.  
Effective date April 27, 2011.

**79-1005.02 Repealed. Laws 2011, LB 235, § 26.**

**79-1007.01 Repealed. Laws 2011, LB 235, § 26.**

**79-1007.02 Repealed. Laws 2011, LB 235, § 26.**

**79-1007.07 Financial reports relating to poverty allowance; department; duties; report; appeal of department decisions.**

(1)(a) The annual financial report required pursuant to section 79-528 shall include:

(i) The amount of the poverty allowance used in the certification of state aid pursuant to section 79-1022 for such school fiscal year;

(ii) The amount of federal funds received based on poverty as defined by the federal program providing the funds;

(iii) The expenditures and sources of funding for each program related to poverty with a narrative description of the program, the method used to allocate money to the program and within the program, and the program's relationship to the poverty plan submitted pursuant to section 79-1013 for such school fiscal year;

(iv) The expenditures and sources of funding for support costs directly attributable to implementing the district's poverty plan; and

(v) An explanation of how any required elements of the poverty plan for such school fiscal year were met.

(b) The department shall set up accounting codes for the receipts and expenditures required to be reported on the annual financial report pursuant to this subsection.

(2) The department shall determine the poverty allowance expenditures using the reported expenditures on the annual financial report for the most recently available complete data year that would include in the poverty allowance expenditures only those expenditures that were used to specifically address issues related to the education of students living in poverty or to the implementation of the poverty plan, that do not replace expenditures that would have occurred if the students involved in the program did not live in poverty, that are not included in other allowances, and that are paid for with noncategorical

funds generated by state or local taxes or funds distributed through the Tax Equity and Educational Opportunities Support Act pursuant to the federal American Recovery and Reinvestment Act of 2009 or the federal Education Jobs Fund created pursuant to Public Law 111-226. The department shall establish a procedure to allow school districts to receive preapproval for categories of expenditures that could be included in poverty allowance expenditures.

(3) If the poverty allowance expenditures do not equal 117.65 percent or more of the poverty allowance for the most recently available complete data year, the department shall calculate a poverty allowance correction. The poverty allowance correction shall equal the poverty allowance minus eighty-five percent of the poverty allowance expenditures. If the poverty allowance expenditures do not equal fifty percent or more of the allowance for such school fiscal year, the school district shall also be disqualified from receiving a poverty allowance for the school fiscal year for which aid is being calculated.

(4) If the department determines that the school district did not meet the required elements of the poverty plan for the most recently available complete data year, the department shall calculate a poverty allowance correction equal to fifty percent of the poverty allowance for such school fiscal year and the school district shall also be disqualified from receiving a poverty allowance for the school fiscal year for which aid is being calculated. Any poverty allowance correction calculated pursuant to this subsection shall be added to any poverty allowance correction calculated pursuant to subsection (3) of this section to arrive at the total poverty allowance correction.

(5) The department may request additional information from any school district to assist with calculations and determinations pursuant to this section. If the school district does not provide information upon the request of the department pursuant to this section, the school district shall be disqualified from receiving a poverty allowance for the school fiscal year for which aid is being calculated.

(6) The department shall annually provide the Legislature with a report containing a general description of the expenditures and funding sources for programs related to poverty statewide and specific descriptions of the expenditures and funding sources for programs related to poverty for each school district.

(7) The state board shall establish a procedure for appeal of decisions of the department to the state board for a final determination.

**Source:** Laws 2006, LB 1024, § 80; Laws 2007, LB641, § 20; Laws 2008, LB988, § 29; Laws 2009, LB545, § 5; Laws 2011, LB18, § 3. Effective date February 11, 2011.

**79-1007.09 Financial reports relating to limited English proficiency; department; duties; report; appeal of department decisions.**

(1)(a) The annual financial report required pursuant to section 79-528 shall include:

(i) The amount of the limited English proficiency allowance used in the certification of state aid pursuant to section 79-1022 for such school fiscal year;

(ii) The amount of federal funds received based on students who are limited English proficient as defined by the federal program providing the funds;

(iii) The expenditures and sources of funding for each program related to limited English proficiency with a narrative description of the program, the method used to allocate money to the program and within the program, and the program's relationship to the limited English proficiency plan submitted pursuant to section 79-1014 for such school fiscal year;

(iv) The expenditures and sources of funding for support costs directly attributable to implementing the district's limited English proficiency plan; and

(v) An explanation of how any required elements of the limited English proficiency plan for such school fiscal year were met.

(b) The department shall set up accounting codes for the receipts and expenditures required to be reported on the annual financial report pursuant to this subsection.

(2) The department shall determine the limited English proficiency allowance expenditures using the reported expenditures on the annual financial report for the most recently available complete data year that would only include in the limited English proficiency allowance expenditures those expenditures that were used to specifically address issues related to the education of students with limited English proficiency or to the implementation of the limited English proficiency plan, that do not replace expenditures that would have occurred if the students involved in the program did not have limited English proficiency, that are not included in other allowances, and that are paid for with noncategorical funds generated by state or local taxes or funds distributed through the Tax Equity and Educational Opportunities Support Act pursuant to the federal American Recovery and Reinvestment Act of 2009 or the federal Education Jobs Fund created pursuant to Public Law 111-226. The department shall establish a procedure to allow school districts to receive preapproval for categories of expenditures that could be included in limited English proficiency allowance expenditures.

(3) If the limited English proficiency allowance expenditures do not equal 117.65 percent or more of the limited English proficiency allowance for the most recently available complete data year, the department shall calculate a limited English proficiency allowance correction. The limited English proficiency allowance correction shall equal the limited English proficiency allowance minus eighty-five percent of the limited English proficiency allowance expenditures. If the limited English proficiency allowance expenditures do not equal fifty percent or more of the allowance for such school fiscal year, the school district shall also be disqualified from receiving a limited English proficiency allowance for the school fiscal year for which aid is being calculated.

(4) If the department determines that the school district did not meet the required elements of the limited English proficiency plan for the most recently available complete data year, the department shall calculate a limited English proficiency allowance correction equal to fifty percent of the limited English proficiency allowance for such school fiscal year and the school district shall also be disqualified from receiving a limited English proficiency allowance for the school fiscal year for which aid is being calculated. Any limited English proficiency allowance correction calculated pursuant to this subsection shall be added to any limited English proficiency allowance correction calculated pursuant to subsection (3) of this section to arrive at the total limited English proficiency allowance correction.

(5) The department may request additional information from any school district to assist with calculations and determinations pursuant to this section. If the school district does not provide information upon the request of the department pursuant to this section, the school district shall be disqualified from receiving a limited English proficiency allowance for the school fiscal year for which aid is being calculated.

(6) The department shall annually provide the Legislature with a report containing a general description of the expenditures and funding sources for programs related to limited English proficiency statewide and specific descriptions of the expenditures and funding sources for programs related to limited English proficiency for each school district.

(7) The state board shall establish a procedure for appeal of decisions of the department to the state board for a final determination.

**Source:** Laws 2006, LB 1024, § 82; Laws 2007, LB641, § 22; Laws 2008, LB988, § 31; Laws 2009, LB545, § 6; Laws 2011, LB18, § 4. Effective date February 11, 2011.

**79-1007.10 Cost growth factor; computation.**

(1) For state aid calculated for all school fiscal years except school fiscal year 2010-11, the cost growth factor shall equal the sum of: (a) The basic allowable growth rate pursuant to section 79-1025 for the school fiscal year in which the aid is to be distributed; plus (b) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year immediately preceding the school fiscal year in which the aid is to be distributed.

(2) For state aid calculated for school fiscal year 2010-11, the cost growth factor shall equal the sum of: (i) One; plus (ii) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year in which the aid is to be distributed; plus (iii) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year immediately preceding the school fiscal year in which the aid is to be distributed; plus (iv) two percent.

**Source:** Laws 2006, LB 1024, § 83; Laws 2007, LB21, § 2; Laws 2008, LB988, § 32; Laws 2009, LB545, § 7; Laws 2011, LB235, § 8. Effective date April 27, 2011.

**79-1007.11 School district formula need; calculation.**

(1) Except as otherwise provided in this section, for school fiscal year 2010-11, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, elementary class size allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, instructional time allowance, teacher education allowance, distance education and telecommunications allowance, averaging adjustment, new learning community transportation adjustment, student growth adjustment, and new school adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, and local choice adjustment.

(2) Except as otherwise provided in this section, for school fiscal years 2011-12 and 2012-13, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance,



limited English proficiency allowance, elementary class size allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, instructional time allowance, teacher education allowance, distance education and telecommunications allowance, averaging adjustment, new learning community transportation adjustment, student growth adjustment, any positive student growth adjustment correction, and new school adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, any negative student growth adjustment correction, and local choice adjustment.

(3) Except as otherwise provided in this section, for school fiscal year 2013-14 and each school fiscal year thereafter, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, instructional time allowance, teacher education allowance, distance education and telecommunications allowance, averaging adjustment, new learning community transportation adjustment, student growth adjustment, any positive student growth adjustment correction, and new school adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, any negative student growth adjustment correction, and local choice adjustment.

(4) For state aid calculated for all school fiscal years except school fiscal year 2011-12, if the formula need calculated for a school district pursuant to subsections (1) through (3) of this section is less than one hundred percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, the formula need for such district shall equal one hundred percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated. For state aid calculated for school fiscal year 2011-12, if the formula need calculated for a school district pursuant to subsection (2) of this section is less than ninety-five percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, the formula need for such district shall equal ninety-five percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated.

(5) For state aid calculated for school fiscal years except school fiscal year 2011-12, except as provided in subsection (7) of this section, if the formula need calculated for a school district pursuant to subsections (1) through (3) of this section is more than one hundred twelve percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, the formula need for such district shall equal one hundred twelve percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, except that the formula need shall not be reduced pursuant to this subsection for any district receiving a student growth adjustment for the school fiscal year for which aid is being calculated. For state aid calculated for school fiscal year 2011-12, except as provided in subsection (7) of this section, if the formula need calculated for a school district pursuant to subsection (2) of this section is more than one hundred seven percent of the formula need for such

district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, the formula need for such district shall equal one hundred seven percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, except that the formula need shall not be reduced pursuant to this subsection for any district receiving a student growth adjustment for the school fiscal year for which aid is being calculated.

(6) For purposes of subsections (4) and (5) of this section, the formula need for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated shall be the formula need used in the final calculation of aid pursuant to section 79-1065 and for districts that were affected by a reorganization with an effective date in the calendar year preceding the calendar year in which aid is certified for the school fiscal year for which aid is being calculated, the formula need for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated shall be attributed to the affected school districts based on information provided to the department by the school districts or proportionally based on the adjusted valuation transferred if sufficient information has not been provided to the department.

(7) For state aid calculated for the first full school fiscal year of a new learning community, if the formula need calculated for a member school district pursuant to subsections (1) through (4) of this section is less than the sum of the school district's state aid certified for the school fiscal year immediately preceding the first full school fiscal year of the learning community plus the school district's other actual receipts included in local system formula resources pursuant to section 79-1018.01 for such school fiscal year plus the product of the school district's general fund levy for such school fiscal year up to one dollar and five cents multiplied by the school district's assessed valuation for such school fiscal year, the formula need for such school district for the school fiscal year for which aid is being calculated shall equal such sum.

**Source:** Laws 2008, LB988, § 13; Laws 2008, LB1153, § 7; Laws 2009, LB545, § 8; Laws 2009, First Spec. Sess., LB5, § 5; Laws 2011, LB235, § 9.

Effective date April 27, 2011.

**79-1007.16 Basic funding; calculation.**

(1) The department shall calculate basic funding for each district as provided in this section.

(2) For state aid calculated for school fiscal years prior to school fiscal year 2011-12:

(a) A comparison group shall be established for each district consisting of the districts for which basic funding is being calculated, the five larger districts that are closest in size to the district for which basic funding is being calculated as measured by formula students, and the five smaller districts that are closest in size to the district for which basic funding is being calculated as measured by formula students. If there are not five districts that are larger than the district for which basic funding is being calculated or if there are not five districts that are smaller than the district for which basic funding is being calculated, the comparison group shall consist of only as many districts as fit the criteria. If more than one district has exactly the same number of formula students as the

largest or smallest district in the comparison group, all of the districts with exactly the same number of formula students as the largest or smallest districts in the comparison group shall be included in the comparison group. If one or more districts have exactly the same number of formula students as the district for which basic funding is being calculated, all such districts shall be included in the comparison group in addition to the five larger districts and the five smaller districts. The comparison group shall remain the same for the final calculation of aid pursuant to section 79-1065;

(b) For districts with nine hundred or more formula students, basic funding shall equal the formula students multiplied by the average of the adjusted general fund operating expenditures per formula student for each district in the comparison group, excluding both the district with the highest adjusted general fund operating expenditures per formula student and the district with the lowest adjusted general fund operating expenditures per formula student of the districts in the comparison group; and

(c) For districts with fewer than nine hundred formula students, basic funding shall equal the product of the average of the adjusted general fund operating expenditures for each district in the comparison group, excluding both the district with the highest adjusted general fund operating expenditures and the district with the lowest adjusted general fund operating expenditures of the districts in the comparison group.

(3) For state aid calculated for school fiscal year 2011-12 and each school fiscal year thereafter:

(a) A comparison group shall be established for each district consisting of the districts for which basic funding is being calculated, the ten larger districts that are closest in size to the district for which basic funding is being calculated as measured by formula students, and the ten smaller districts that are closest in size to the district for which basic funding is being calculated as measured by formula students. If there are not ten districts that are larger than the district for which basic funding is being calculated or if there are not ten districts that are smaller than the district for which basic funding is being calculated, the comparison group shall consist of only as many districts as fit the criteria. If more than one district has exactly the same number of formula students as the largest or smallest district in the comparison group, all of the districts with exactly the same number of formula students as the largest or smallest districts in the comparison group shall be included in the comparison group. If one or more districts have exactly the same number of formula students as the district for which basic funding is being calculated, all such districts shall be included in the comparison group in addition to the ten larger districts and the ten smaller districts. The comparison group shall remain the same for the final calculation of aid pursuant to section 79-1065;

(b) For districts with nine hundred or more formula students, basic funding shall equal the formula students multiplied by the average of the adjusted general fund operating expenditures per formula student for each district in the comparison group, excluding both the two districts with the highest adjusted general fund operating expenditures per formula student and the two districts with the lowest adjusted general fund operating expenditures per formula student of the districts in the comparison group; and

(c) For districts with fewer than nine hundred formula students, basic funding shall equal the product of the average of the adjusted general fund

operating expenditures for each district in the comparison group, excluding both the two districts with the highest adjusted general fund operating expenditures and the two districts with the lowest adjusted general fund operating expenditures of the districts in the comparison group.

**Source:** Laws 2008, LB988, § 18; Laws 2009, LB549, § 29; Laws 2011, LB235, § 10.

Effective date April 27, 2011.

**79-1007.18 Averaging adjustment; calculation.**

(1) The department shall calculate an averaging adjustment for districts if the basic funding per formula student is less than the averaging adjustment threshold and the general fund levy for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated was at least one dollar per one hundred dollars of taxable valuation. For school districts that are members of a learning community, the general fund levy for purposes of this section includes both the common general fund levy and the school district general fund levy authorized pursuant to subdivisions (2)(b) and (2)(c) of section 77-3442. The averaging adjustment shall equal the district's formula students multiplied by the percentage specified in this section for such district of the difference between the averaging adjustment threshold minus such district's basic funding per formula student.

(2)(a) For school fiscal year 2010-11, the averaging adjustment threshold shall equal the lesser of (i) the averaging adjustment threshold for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated increased by the sum of the basic allowable growth rate plus five-tenths of one percent or (ii) the statewide average basic funding per formula student for the school fiscal year for which aid is being calculated.

(b) For school fiscal year 2011-12, the averaging adjustment threshold shall equal ninety-five percent of the lesser of (i) the averaging adjustment threshold for school fiscal year 2010-11 increased by the basic allowable growth rate or (ii) the statewide average basic funding per formula student for school fiscal year 2011-12.

(c) For school fiscal year 2012-13 and each school fiscal year thereafter, the averaging adjustment threshold shall equal the lesser of (i) the averaging adjustment threshold for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated increased by the basic allowable growth rate or (ii) the statewide average basic funding per formula student for the school fiscal year for which aid is being calculated.

(3) The percentage to be used in the calculation of an averaging adjustment shall be based on the general fund levy for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated.

(4) The percentages to be used in the calculation of averaging adjustments shall be as follows:

(a) If such levy was at least one dollar per one hundred dollars of taxable valuation but less than one dollar and one cent per one hundred dollars of taxable valuation, the percentage shall be fifty percent;

(b) If such levy was at least one dollar and one cent per one hundred dollars of taxable valuation but less than one dollar and two cents per one hundred dollars of taxable valuation, the percentage shall be sixty percent;

(c) If such levy was at least one dollar and two cents per one hundred dollars of taxable valuation but less than one dollar and three cents per one hundred dollars of taxable valuation, the percentage shall be seventy percent;

(d) If such levy was at least one dollar and three cents per one hundred dollars of taxable valuation but less than one dollar and four cents per one hundred dollars of taxable valuation, the percentage shall be eighty percent; and

(e) If such levy was at least one dollar and four cents per one hundred dollars of taxable valuation, the percentage shall be ninety percent.

**Source:** Laws 2008, LB988, § 20; Laws 2009, LB545, § 9; Laws 2011, LB235, § 11.

Effective date April 27, 2011.

**79-1007.19 Repealed. Laws 2011, LB 235, § 26.**

**79-1007.24 Repealed. Laws 2011, LB 235, § 26.**

**79-1008.01 Equalization aid; amount.**

For all school fiscal years except school fiscal year 2010-11, except as provided in sections 79-1008.02 and 79-1009, each local system shall receive equalization aid in the amount that the total formula need of each local system, as determined pursuant to sections 79-1007.04 to 79-1007.23 and 79-1007.25, exceeds its total formula resources as determined pursuant to sections 79-1015.01 to 79-1018.01.

For school fiscal year 2010-11, except as provided in sections 79-1008.02 and 79-1009, each local system shall receive equalization aid in the amount by which one hundred two and twenty-three hundredths percent of the total formula need of each local system, as determined pursuant to sections 79-1007.04 to 79-1007.23 and 79-1007.25, exceeds its total formula resources as determined pursuant to sections 79-1015.01 to 79-1018.01.

**Source:** Laws 1997, LB 710, § 11; Laws 1997, LB 806, § 38; Laws 1998, LB 989, § 7; Laws 1998, Spec. Sess., LB 1, § 19; Laws 1999, LB 149, § 6; Laws 2001, LB 797, § 20; Laws 2002, LB 898, § 8; Laws 2003, LB 540, § 4; Laws 2004, LB 1093, § 5; Laws 2006, LB 1024, § 84; Laws 2008, LB988, § 33; Laws 2009, First Spec. Sess., LB5, § 10; Laws 2011, LB8, § 2; Laws 2011, LB18, § 5; Laws 2011, LB235, § 12.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB8, section 2, with LB18, section 5, and LB235, section 12, to reflect all amendments.

**Note:** Changes made by LB18 became effective February 11, 2011. Changes made by LB235 became effective April 27, 2011. Changes made by LB8 became effective August 27, 2011

**79-1008.02 Minimum levy adjustment; calculation; effect.**

A minimum levy adjustment shall be calculated and applied to any local system that has a general fund common levy for the fiscal year during which aid is certified that is less than the maximum levy, for such fiscal year for such local system, allowed pursuant to subdivision (2)(a) or (b) of section 77-3442 without a vote pursuant to section 77-3444 less five cents for learning communities and less ten cents for all other local systems. To calculate the minimum levy adjustment, the department shall subtract the local system general fund common levy for such fiscal year for such local system from the maximum levy

allowed pursuant to subdivision (2)(a) or (b) of section 77-3442 without a vote pursuant to section 77-3444 less five cents for learning communities and less ten cents for all other local systems and multiply the result by the local system's adjusted valuation divided by one hundred. The minimum levy adjustment shall be added to the formula resources of the local system for the determination of equalization aid pursuant to section 79-1008.01. If the minimum levy adjustment is greater than or equal to the allocated income tax funds calculated pursuant to section 79-1005.01, the local system shall not receive allocated income tax funds. If the minimum levy adjustment is less than the allocated income tax funds calculated pursuant to section 79-1005.01, the local system shall receive allocated income tax funds in the amount of the difference between the allocated income tax funds calculated pursuant to section 79-1005.01 and the minimum levy adjustment. This section does not apply to the calculation of aid for a local system containing a learning community for the first school fiscal year for which aid is calculated for such local system.

**Source:** Laws 1997, LB 806, § 39; Laws 1998, Spec. Sess., LB 1, § 20; Laws 2001, LB 797, § 21; Laws 2002, LB 898, § 9; Laws 2006, LB 1024, § 85; Laws 2007, LB641, § 26; Laws 2008, LB988, § 34; Laws 2011, LB235, § 13.  
Effective date April 27, 2011.

**79-1009 Option school districts; net option funding; calculation.**

(1)(a) A district shall receive net option funding if option students as defined in section 79-233 (i) were actually enrolled in the school year immediately preceding the school year in which the aid is to be paid or (ii) will be enrolled in the school year in which the aid is to be paid as converted contract option students.

(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, and (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.

(c) 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.

(2) For purposes of this section, net option funding shall be the sum of the product of the net number of option students multiplied by the statewide average basic funding per formula student.

(3) A district's net option funding shall be zero if the calculation produces a negative result.

Payments made under this section 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.

Effective date April 27, 2011.

**79-1009.01 Converted contract option students; department; calculations; notice to applicant district.**

For school fiscal years prior to school fiscal year 2027-28, a district which will have converted contract option students shall apply to the department on a form approved by the department within fifteen days after April 27, 2011, for converted contract option students for school fiscal year 2011-12 and on or before November 1 of the calendar year preceding the beginning of all other school fiscal years for which there will be converted contract option students. The department shall determine the amount of tuition receipts from converted contracts to be excluded from the calculation of local system formula resources for each of the first two school fiscal years for which the converted contract will not be in effect and shall determine the number of converted contract option students to be attributed to the receiving district in the calculation of state aid for the first school fiscal year for which the converted contract will not be in effect, and the same number shall be attributed as optioning out of the resident school district. In the final calculation of state aid pursuant to section 79-1065, students that were attributed as optioning into or out of a district shall be replaced with the actual number from fall membership. The department shall notify the applicant district within thirty days after receipt of the completed application.

**Source:** Laws 2011, LB235, § 15.  
Effective date April 27, 2011.

**79-1010 Repealed. Laws 2011, LB 8, § 4; Laws 2011, LB 235, § 26.**

**Note:** LB235 became effective April 27, 2011. LB8 became effective August 27, 2011.

**79-1012 School District Reorganization Fund; created; use; investment.**

The School District Reorganization Fund is created. The fund shall be administered by the department. The fund shall consist of money transferred from the Education Innovation Fund and shall be used to provide payments to reorganized school districts pursuant to section 79-1011. Any unencumbered money remaining in the School District Reorganization Fund on July 1, 2011, shall be transferred to the Education Innovation Fund on such date. Any money remaining in the School District Reorganization Fund on July 1, 2013, shall be transferred to the Education Innovation Fund on such date. Any money in the School District Reorganization 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 1091, § 10; Laws 2007, LB603, § 4; Laws 2009, LB545, § 13; Laws 2011, LB333, § 10.  
Effective date March 16, 2011.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

**79-1015.01 Local system formula resources; local effort rate yield; determination.**

(1) Local system formula resources shall include local effort rate yield which shall be computed as prescribed in this section.

(2) For each school fiscal year except school fiscal years 2011-12 and 2012-13: (a) For state aid certified pursuant to section 79-1022, the local effort rate shall be the maximum levy, for the school fiscal year for which aid is being certified, authorized pursuant to subdivision (2)(a) of section 77-3442 less five cents; (b) for the final calculation of state aid pursuant to section 79-1065, the local effort rate shall be the rate which, when multiplied by the total adjusted valuation of all taxable property in local systems receiving equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act, will produce the amount needed to support the total formula need of such local systems when added to state aid appropriated by the Legislature and other actual receipts of local systems described in section 79-1018.01; and (c) the local effort rate yield for such school fiscal years shall be determined by multiplying each local system's total adjusted valuation by the local effort rate.

(3) For school fiscal years 2011-12 and 2012-13: (a) For state aid certified pursuant to section 79-1022, the local effort rate shall be the maximum levy, for the school fiscal year for which aid is being certified, authorized pursuant to subdivision (2)(a) of section 77-3442 less one and five-hundredths of one cent; (b) for the final calculation of state aid pursuant to section 79-1065, the local effort rate shall be the rate which, when multiplied by the total adjusted valuation of all taxable property in local systems receiving equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act, will produce the amount needed to support the total formula need of such local systems when added to state aid appropriated by the Legislature and other actual receipts of local systems described in section 79-1018.01; and (c) the local effort rate yield for such school fiscal years shall be determined by multiplying each local system's total adjusted valuation by the local effort rate.

**Source:** Laws 1997, LB 806, § 45; Laws 1998, Spec. Sess., LB 1, § 23; Laws 1999, LB 149, § 8; Laws 2001, LB 797, § 24; Laws 2007, LB641, § 27; Laws 2008, LB988, § 38; Laws 2011, LB235, § 16. Effective date April 27, 2011.

**79-1017.01 Local system formula resources; amounts included.**

For state aid calculated for school fiscal years prior to school fiscal year 2012-13, local system formula resources includes retirement aid determined under section 79-1028.03, allocated income tax funds determined for each such district pursuant to the provisions of section 79-1005.01, and adjustments pursuant to section 79-1008.02.

For state aid calculated for school fiscal years 2012-13 and 2013-14, local system formula resources includes retirement aid determined under section 79-1028.03, allocated income tax funds determined for each district pursuant to section 79-1005.01, and adjustments pursuant to section 79-1008.02, 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.

For state aid calculated for school fiscal year 2014-15 and each school fiscal year thereafter, local system formula resources includes allocated income tax



funds determined for each district pursuant to section 79-1005.01 and adjustments pursuant to section 79-1008.02 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.  
Effective date April 27, 2011.

**79-1018.01 Local system formula resources; other actual receipts included.**

Except as otherwise provided in this section, local system formula resources include other actual receipts available for the funding of general fund operating expenditures as determined by the department for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid. Other actual receipts include:

- (1) Public power district sales tax revenue;
- (2) Fines and license fees;
- (3) Tuition receipts from individuals, other districts, or any other source except receipts derived from adult education, receipts derived from summer school tuition, receipts derived from early childhood education tuition, tuition receipts from converted contracts beginning with the calculation of state aid to be distributed in school fiscal year 2011-12, and receipts from educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities;
- (4) Transportation receipts;
- (5) Interest on investments;
- (6) Other miscellaneous noncategorical local receipts, not including receipts from private foundations, individuals, associations, or charitable organizations;
- (7) Special education receipts;
- (8) Special education receipts and non-special education receipts from the state for wards of the court and wards of the state;
- (9) All receipts from the temporary school fund. Receipts from the temporary school fund shall only include (a) receipts pursuant to section 79-1035, to the extent that such receipts for the calculation of aid for school fiscal year 2018-19 and each school fiscal year thereafter are not returned to the temporary school fund pursuant to section 79-309.01, and (b) the receipt of funds pursuant to section 79-1036 for property leased for a public purpose as set forth in subdivision (1)(a) of section 77-202;
- (10) Motor vehicle tax receipts received;
- (11) Pro rata motor vehicle license fee receipts;
- (12) Other miscellaneous state receipts excluding revenue from the textbook loan program authorized by section 79-734;
- (13) Impact aid entitlements for the school fiscal year which have actually been received by the district to the extent allowed by federal law;
- (14) All other noncategorical federal receipts;
- (15) All receipts pursuant to the enrollment option program under sections 79-232 to 79-246;

(16) Receipts under the federal Medicare Catastrophic Coverage Act of 1988, as such act existed on May 8, 2001, as authorized pursuant to sections 43-2510 and 43-2511 but only to the extent of the amount the local system would have otherwise received pursuant to the Special Education Act;

(17) Receipts for accelerated or differentiated curriculum programs pursuant to sections 79-1106 to 79-1108.03; and

(18) Revenue received from the nameplate capacity tax distributed pursuant to section 77-6204.

**Source:** Laws 1997, LB 710, § 12; Laws 1997, LB 806, § 50; Laws 1998, LB 306, § 44; Laws 1998, LB 1229, § 4; Laws 1998, Spec. Sess., LB 1, § 25; Laws 1999, LB 149, § 9; Laws 2001, LB 797, § 25; Laws 2001, LB 833, § 6; Laws 2006, LB 1208, § 6; Laws 2007, LB603, § 5; Laws 2008, LB988, § 40; Laws 2010, LB1014, § 2; Laws 2010, LB1048, § 16; Laws 2011, LB235, § 18.  
Effective date April 27, 2011.

**Cross References**

Special Education Act, see section 79-1110.

**79-1022 Distribution of income tax receipts and state aid; effect on budget.**

(1) On or before March 10, 2010, and March 1, 2011, for school fiscal year 2010-11, on or before July 1, 2011, for school fiscal year 2011-12, and on or before March 1 of each year thereafter for each ensuing fiscal year, the department shall determine the amounts to be distributed to each local system and each district 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, each learning community, and each district. The amount to be distributed to each district that is not a member of a learning community from the amount certified for a local system shall be proportional based on the formula students attributed to each district in the local system. The amount to be distributed to each district that is a member of a learning community from the amount certified for the local system shall be proportional based on the formula needs calculated for each district in the local system. On or before March 1, 2011, for school fiscal year 2010-11, on or before July 1, 2011, for school fiscal year 2011-12, and on or before March 1 of each year thereafter for each ensuing fiscal year, the department shall report the necessary funding level to the Governor, the Appropriations Committee of the Legislature, and the Education Committee of the Legislature. 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 district's general fund budget statement as provided to the Auditor of Public Accounts pursuant to section 79-1024. Increases in state aid for school fiscal year 2010-11 from the first certification in 2010 to the second certification on or before March 1, 2011, shall not require a school district to revise its previously adopted budget statement pursuant to section 13-511 for school fiscal year 2010-11 unless expenditures are increased in such school fiscal year as a result of such increases in state aid. The amount of such increased state aid that has not been included in an amended budget for school fiscal year 2010-11 shall be included in the unencumbered cash balance pursuant to section 13-504 for the school fiscal year 2011-12 budget for each school district.

(2) Except as provided in this subsection, subsection (8) of section 79-1016, and sections 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 school district 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. For school fiscal year 2010-11, payments shall be based on the amounts certified pursuant to subsection (1) of this section on March 10, 2010, except that on the last business day of April, the department shall make federal Education Jobs Fund allocations available pursuant to section 79-1028.04 equal to any increases in state aid for school fiscal year 2010-11 from the first certification in 2010 to the second certification on or before March 1, 2011, rounded to the nearest whole dollar.

**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.  
Effective date February 11, 2011.

**79-1022.02 School year 2010-11 certification null and void; recertification.**

Notwithstanding any other provision of law, the certification of state aid pursuant to section 79-1022 to be paid to school districts during school fiscal year 2010-11 is null and void with regard to the total state aid to be paid during school fiscal year 2010-11. State aid to be paid during such school year and the certifications pursuant to section 79-1022 shall be recertified for the purpose of determining federal Education Jobs Fund allocations and adjusting the total state aid to be paid to include such allocations on or before March 1, 2011, using data sources as they existed on March 10, 2010.

**Source:** Laws 2002, LB 898, § 13; Laws 2003, LB 540, § 6; Laws 2008, LB988, § 42; Laws 2011, LB18, § 7.  
Effective date February 11, 2011.

**79-1023 School district; general fund budget of expenditures; limitation; department; certification.**

(1) On or before March 10, 2010, on or before July 1, 2011, 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 immediately following school fiscal year.

(2) For school fiscal years prior to school fiscal year 2011-12, except as provided in section 79-1028.01, no school district shall have a general fund budget of expenditures minus special grant funds and the special education budget of expenditures more than the greater of (a) the product of the difference of the general fund budget of expenditures minus special grant funds and the special education budget of expenditures for the immediately preceding school fiscal year multiplied by (i) except as otherwise provided in subdivision (a)(ii) of this subsection, the sum of one plus the local system's applicable allowable growth rate or (ii) for school fiscal year 2010-11, the sum of one plus seventy-five hundredths of one percent plus the local system's applicable allowable growth rate or (b)(i) except as otherwise provided in subdivision (b)(ii) of this subsection, the difference of one hundred twenty percent of formula need for such school fiscal year minus the product of the sum of one plus the basic allowable growth rate for such school fiscal year multiplied by the special education budget of expenditures as filed on the school district budget statement on or before September 20 for the immediately preceding school fiscal year or (ii) for school fiscal years 2009-10 and 2010-11, the difference of one hundred sixteen and fifteen-hundredths percent of formula need for such school fiscal year minus the product of the sum of one plus the basic allowable growth rate for such school fiscal year multiplied by the special education budget of expenditures as filed on the school district budget statement on or before September 20 for the immediately preceding school fiscal year.

(3) For school fiscal year 2011-12, except as provided in sections 79-1028.01, 79-1029, and 79-1030, 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 school fiscal year 2010-11 minus exclusions for school fiscal year 2010-11 that fit within subsection (1) of section 79-1028.01 with the difference increased by an amount equal to one and one hundred fifteen thousandths percent of the formula need calculated for school fiscal year 2010-11, (b) the general fund budget of expenditures for school fiscal year 2010-11 minus exclusions for school fiscal year 2010-11 that fit within subsection (1) of section 79-1028.01 with the difference increased by an amount equal to any student growth adjustment calculated for school fiscal year 2011-12, or (c) one hundred ten percent of formula need for school fiscal year 2011-12 minus the special education budget of expenditures as filed on the school district budget statement on or before September 20 for school fiscal year 2010-11, which special education budget of expenditures is increased by the basic allowable growth rate for school fiscal year 2011-12.

(4) For school fiscal year 2012-13 and each school fiscal year thereafter, except as provided in sections 79-1028.01, 79-1029, and 79-1030, each school district shall have budget authority for the general fund budget of expenditures equal to the greater of (a) the general fund budget of expenditures for the immediately preceding school fiscal year minus exclusions pursuant to subsection (1) of section 79-1028.01 for such school fiscal year with the difference increased by the basic allowable growth rate for the school fiscal year for which budget authority is being calculated, (b) the general fund budget of expenditures for the immediately preceding school fiscal year minus exclusions pursuant to subsection (1) of section 79-1028.01 for such school fiscal year with the

difference increased by an amount equal to any student growth adjustment calculated for the school fiscal year for which budget authority is being calculated, or (c) one hundred ten percent of formula need for the school fiscal year for which budget authority is being calculated minus the special education budget of expenditures as filed on the school district budget statement on or before September 20 for the immediately preceding school fiscal year, which special education budget of expenditures is increased by the basic allowable growth rate for the school fiscal year for which budget authority is being calculated.

(5) 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.

**Note:** Changes made by LB18 became effective February 11, 2011. Changes made by LB235 became effective April 27, 2011.

**Cross References**

**Retirement expenditures**, not exempt from limitations, see section 79-977.

**79-1025 Basic allowable growth rate.**

The basic allowable growth rate for general fund expenditures other than expenditures for special education shall be the base limitation established under section 77-3446. The budget authority for special education for all classes of school districts shall be the actual anticipated expenditures for special education subject to the approval of the state board. Such budget authority and funds generated pursuant to such budget authority shall be used only for special education expenditures.

**Source:** Laws 1990, LB 1059, § 16; Laws 1991, LB 511, § 81; Laws 1992, LB 245, § 86; Laws 1992, LB 1063, § 203; Laws 1992, Second Spec. Sess., LB 1, § 174; Laws 1995, LB 613, § 4; Laws 1996, LB 299, § 28; R.S.Supp., 1995, § 79-3816; Laws 1996, LB 900, § 671; Laws 1998, LB 989, § 9; Laws 1998, Spec. Sess., LB 1, § 30; Laws 2003, LB 540, § 7; Laws 2011, LB235, § 20.  
Effective date April 27, 2011.

**Cross References**

**Retirement expenditures**, not exempt from limitations, see section 79-977.

**79-1026 Repealed. Laws 2011, LB 235, § 26.**

**79-1026.01 Repealed. Laws 2011, LB 235, § 26.**

**Note:** This section was amended by Laws 2011, LB18, section 9, and repealed by Laws 2011, LB235, section 26.

**Note:** LB18 became effective February 11, 2011. LB235 became effective April 27, 2011.

**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 March 10, 2010, on or before July 1, 2011, and on or before March 1 each year thereafter, the department shall determine and certify each district’s applicable allowable reserve percentage.

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.  
Effective date February 11, 2011.

**79-1028 Repealed. Laws 2011, LB 235, § 26.**

**79-1028.01 School fiscal years; district may exceed certain limits; situations enumerated; state board; duties.**

(1) For each school fiscal year, a school district may exceed its budget authority for the general fund budget of expenditures as calculated pursuant to section 79-1023 for such school fiscal year by a specific dollar amount for the following exclusions:

(a) Expenditures for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act;

(b) Expenditures for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a school district which require

or obligate a school district to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a school district;

(c) Expenditures pursuant to the Retirement Incentive Plan authorized in section 79-855 or the Staff Development Assistance authorized in section 79-856;

(d) Expenditures of amounts received from educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities;

(e) Expenditures to pay another school district for the transfer of land from such other school district;

(f) Expenditures in school fiscal years 2009-10 through 2016-17 to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Employees Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent;

(g) Expenditures in school fiscal years 2009-10 through 2016-17 to pay for school district contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to the retirement system established pursuant to the Class V School Employees Retirement Act to the extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent;

(h) Expenditures for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination occurring prior to July 1, 2009, or occurring on or after the last day of the 2010-11 school year and prior to the first day of the 2013-14 school year;

(i) Any expenditures in school fiscal years 2016-17 and 2017-18 of amounts specified in the notice provided by the Commissioner of Education pursuant to section 79-309.01 for teacher performance pay;

(j) The special education budget of expenditures; and

(k) Expenditures of special grant funds.

(2) For each school fiscal year, a school district may exceed its budget authority for the general fund budget of expenditures as calculated pursuant to section 79-1023 for such school fiscal year by a specific dollar amount and include such dollar amount in the budget of expenditures used to calculate budget authority for the general fund budget of expenditures pursuant to section 79-1023 for future years for the following exclusions:

(a) Expenditures of incentive payments or base fiscal year incentive payments to be received in such school fiscal year pursuant to section 79-1011;

(b) The first school fiscal year the district will be participating in Network Nebraska for the full school fiscal year, for the difference of the estimated expenditures for such school fiscal year for telecommunications services, access to data transmission networks that transmit data to and from the school district, and the transmission of data on such networks as such expenditures are defined by the department for purposes of the distance education and telecommunications allowance minus the dollar amount of such expenditures for the second school fiscal year preceding the first full school fiscal year the district participates in Network Nebraska; and

(c) Expenditures for new elementary attendance sites in the first year of operation or the first year of operation after being closed for at least one school year if such elementary attendance site will most likely qualify for the elementary site allowance in the immediately following school fiscal year as determined by the state board.

(3) The state board shall approve, deny, or modify the amount allowed for any exclusions to the budget authority for the general fund budget of expenditures pursuant to this section.

**Source:** Laws 2008, LB988, § 46; Laws 2008, LB1154, § 10; Laws 2009, LB545, § 19; Laws 2010, LB1014, § 3; Laws 2011, LB235, § 21; Laws 2011, LB382, § 6; Laws 2011, LB509, § 39.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB235, section 21, with LB382, section 6, and LB509, section 39, to reflect all amendments.

**Note:** Changes made by LB235 became effective April 27, 2011. Changes made by LB382 became effective May 5, 2011. Changes made by LB509 became operative July 1, 2011.

**Cross References**

**Class V School Employees Retirement Act**, see section 79-978.01.

**Emergency Management Act**, see section 81-829.36.

**79-1028.02 School fiscal years 2009-10 and 2010-11; American Recovery and Reinvestment Act percentage; school district allocation; computation; school district; duties.**

For each of school fiscal years 2009-10 and 2010-11, the American Recovery and Reinvestment Act percentage shall equal the amount of funding from the federal American Recovery and Reinvestment Act of 2009 to be distributed through the Tax Equity and Educational Opportunities Support Act for such school fiscal year divided by the total equalization aid to be distributed pursuant to the Tax Equity and Educational Opportunities Support Act for such school fiscal year. For each school district, the American Recovery and Reinvestment Act allocation shall equal the equalization aid to be distributed to the school district for such school fiscal year multiplied by the American Recovery and Reinvestment Act percentage for such school fiscal year. Such allocation shall only be distributed upon filing of an application signed by the superintendent and school board president of a school district and filed with the department by the superintendent of such school district, which application meets the requirements of the federal American Recovery and Reinvestment Act of 2009 and is approved by the Governor or his or her designee. A school district shall account for, report, and spend such allocation as required by the federal American Recovery and Reinvestment Act of 2009. Such allocation shall not be considered a special grant fund and shall be considered state aid for all purposes except as otherwise provided in this section and the federal American Recovery and Reinvestment Act of 2009. Such allocation shall not be adjusted in the final calculation of state aid pursuant to section 79-1065. Such allocation shall be included in the total state aid which may be adjusted pursuant to section 79-1065. Expenditures of such allocation shall be considered expenditures from the general fund of the school district and shall be included in general fund operating expenditures.

**Source:** Laws 2009, LB545, § 20; Laws 2011, LB18, § 12.  
Effective date February 11, 2011.

**79-1028.04 School fiscal year 2010-11; federal Education Jobs Fund allocation; computation; school district; duties.**



For school fiscal year 2010-11, the federal Education Jobs Fund allocation shall equal any increases in state aid for school fiscal year 2010-11 from the first certification in 2010 to the second certification on or before March 1, 2011. Such allocation shall only be payable upon meeting the requirements of this section, including approval by the Governor or his or her designee of either an application pursuant to section 79-1028.02 or an application for funding filed pursuant to this section which meets the requirements of the federal American Recovery and Reinvestment Act of 2009, signed by the superintendent and school board president of a school district and filed with the department by the superintendent of such school district. A school district shall account for, report, and spend such allocation as required by section 101 of Public Law 111-226. Such allocation shall not be considered special grant funds and shall be considered state aid for all purposes except as otherwise provided in this section and section 101 of Public Law 111-226. Such allocation shall not be adjusted in the final calculation of state aid pursuant to section 79-1065. Such allocation shall be included in the total state aid which may be adjusted pursuant to section 79-1065. Expenditures of such allocation shall be considered expenditures from the general fund of the school district and shall be included in general fund operating expenditures.

**Source:** Laws 2011, LB18, § 11.  
Effective date February 11, 2011.

**79-1029 Budget authority for general fund budget of expenditures; Class II, III, IV, V, or VI district may exceed; procedure.**

A Class II, III, IV, V, or VI district may exceed the budget authority for the general fund budget of expenditures prescribed in section 79-1023 by an amount approved by a majority of legal voters voting on the issue at a primary, general, or special election called for such purpose upon the recommendation of the board 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 district. The recommendation of the board or the petition of the legal voters shall include the amount by which the board would increase its general fund budget of expenditures for the ensuing school year over and above the budget authority for the general fund budget of expenditures prescribed in section 79-1023. The county clerk or election commissioner shall place the question on the primary or general election ballot or call for a special election on the issue after the receipt of such board recommendation or legal voter petition. The election shall be held pursuant to the Election Act or section 77-3444, and all costs for a special election shall be paid by the district. A vote to exceed the budget authority for the general fund budget of expenditures prescribed in section 79-1023 may be approved on the same question as a vote to exceed the levy limits provided in section 77-3444.

**Source:** Laws 1990, LB 1059, § 20; Laws 1991, LB 511, § 85; Laws 1992, LB 245, § 90; Laws 1994, LB 76, § 608; Laws 1996, LB 299, § 31; R.S.1943, (1994), § 79-3820; Laws 1996, LB 900, § 675; Laws 1997, LB 345, § 29; Laws 1998, LB 989, § 12; Laws 1999, LB 813, § 28; Laws 2000, LB 1213, § 1; Laws 2003, LB 67, § 19; Laws 2008, LB988, § 47; Laws 2011, LB235, § 22.  
Effective date April 27, 2011.

Election Act, see section 32-101.

**79-1030 Unused budget authority for general fund budget of expenditures; carried forward; limitation.**

A Class II, III, IV, V, or VI district may choose not to increase its general fund budget of expenditures by the full amount of budget authority for the general fund budget of expenditures as calculated pursuant to section 79-1023. In such cases, the department shall calculate the amount of unused budget authority which shall be carried forward to future budget years. The amount of unused budget authority that may be used by a district in a single school fiscal year to increase its general fund budget of expenditures above the budget authority for the general fund budget of expenditures as calculated pursuant to section 79-1023 shall be limited to two percent of the difference of the general fund budget of expenditures minus the sum of special grant funds, the special education budget of expenditures, and exceptions pursuant to subsection (1) of section 79-1028.01 for the immediately preceding school fiscal year.

**Source:** Laws 1990, LB 1059, § 21; R.S.1943, (1994), § 79-3821; Laws 1996, LB 900, § 676; Laws 1998, LB 989, § 13; Laws 1998, Spec. Sess., LB 1, § 32; Laws 2006, LB 1024, § 91; Laws 2010, LB1071, § 23; Laws 2011, LB235, § 23.  
Effective date April 27, 2011.

**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 March 1, 2011, for school fiscal year 2010-11, on or before July 1, 2011, for school fiscal year 2011-12, and on or before March 1 for each ensuing school fiscal year thereafter 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.  
Effective date February 11, 2011.

(b) SCHOOL FUNDS

**79-1044 Forest reserve funds; distribution to counties entitled for schools and roads; how made.**

The forest reserve funds, annually paid into the state treasury by the United States Government under an act of Congress approved June 30, 1906, shall be distributed among the counties of the state entitled to the same for the benefit of the public schools and the public roads of such counties based upon information provided by the United States Department of the Interior under the direction of the Commissioner of Education in the following manner:

(1) The State Treasurer shall annually on the first Monday in July certify to the commissioner the amount of money received from the United States Government as Nebraska's proportionate share of the income from the forest reserves within the state for the most recent complete fiscal year; and

(2) The commissioner shall, on or before August 5, make apportionment of such funds to such counties according to the number of acres of forest reserve in each county and certify the apportionment of each county to the county treasurer of the proper county and to the Director of Administrative Services. The director shall draw a warrant on the State Treasurer in favor of the various counties for the amount specified by the commissioner.

**Source:** Laws 1907, c. 143, § 1, p. 453; R.S.1913, § 6938; C.S.1922, § 6521; C.S.1929, § 79-2010; R.S.1943, § 79-2010; Laws 1947, c. 284, § 1, p. 892; Laws 1949, c. 256, § 384, p. 820; R.S.1943, (1994), § 79-1309; Laws 1996, LB 900, § 690; Laws 1999, LB 272, § 99; Laws 2001, LB 797, § 33; Laws 2011, LB333, § 11. Effective date March 16, 2011.

#### **79-1047 Public grazing funds; distribution to counties; how made.**

The public grazing funds, annually paid to the state treasury by the United States Government under the federal Taylor Grazing Act, 43 U.S.C. 315i, as such act existed on May 8, 2001, shall be distributed among the counties of the state entitled to the same for the benefit of the school districts of such counties based upon information provided by the United States Department of the Interior under the direction of the Commissioner of Education in the following manner:

(1) The State Treasurer shall annually on the first Monday in July certify to the commissioner the amount of money received from the United States Government as Nebraska's proportionate share of the income from the grazing lands within the state for the most recent complete fiscal year; and

(2) The commissioner shall, on or before August 5, make apportionment of such funds to such counties according to the number of acres of grazing land in each county and certify the apportionment of each county to the county treasurer of the proper county and to the Director of Administrative Services. The director shall draw a warrant on the State Treasurer in favor of the various counties for the amount so specified by the Commissioner of Education.

**Source:** Laws 1947, c. 300, § 1, p. 916; R.S.Supp.,1947, § 79-2013; Laws 1949, c. 256, § 387, p. 821; Laws 1951, c. 289, § 1, p. 956; R.S.1943, (1994), § 79-1312; Laws 1996, LB 900, § 693; Laws 1999, LB 272, § 102; Laws 2001, LB 797, § 34; Laws 2011, LB333, § 12. Effective date March 16, 2011.

#### **79-1051 Flood control funds; apportionment to counties by Commissioner of Education.**

The distribution of the funds received by the State Treasurer under section 79-1049 shall be made based upon information provided by the United States Department of the Interior under the direction of the Commissioner of Education in the following manner:

(1) The State Treasurer shall annually on the first Monday in July certify to the commissioner the amount of money received from the United States Government as Nebraska's proportionate share of the income from the leasing of lands acquired by the United States for flood control purposes; and

(2) The commissioner shall, on or before August 5, make apportionment of such fund to the counties entitled thereto in accordance with section 79-1050 and certify the apportionment of each county to the county treasurer of the proper county and to the Director of Administrative Services. The director shall draw a warrant on the State Treasurer in favor of the various counties for the amount specified by the commissioner.

**Source:** Laws 1949, c. 251, § 3, p. 683; R.S.1943, (1994), § 79-1317; Laws 1996, LB 900, § 697; Laws 1999, LB 272, § 104; Laws 2001, LB 797, § 35; Laws 2011, LB333, § 13.  
Effective date March 16, 2011.

(d) SCHOOL BUDGETS AND ACCOUNTING

**79-1083.03 Repealed. Laws 2011, LB 235, § 26.**

**ARTICLE 11**

**SPECIAL POPULATIONS AND SERVICES**

(a) EARLY CHILDHOOD EDUCATION

Section

79-1103. Early Childhood Education Grant Program; established; administration; priorities; programs; requirements; report; endowment agreement; effect.

(b) GIFTED CHILDREN AND LEARNERS WITH HIGH ABILITY

79-1108. Learners with high ability; identification and programs.

79-1108.02. Learners with high ability; curriculum programs; funding.

(k) HIGH-NEEDS EDUCATION COORDINATOR

79-11,150. Repealed. Laws 2011, LB 333, § 18.

(a) EARLY CHILDHOOD EDUCATION

**79-1103 Early Childhood Education Grant Program; established; administration; priorities; programs; requirements; report; endowment agreement; effect.**

(1)(a) The State Department of Education shall establish and administer the Early Childhood Education Grant Program. Upon the effective date of an endowment agreement, administration of the Early Childhood Education Grant Program with respect to programs for children from birth to age three shall transfer to the board of trustees. If there is no endowment agreement in effect, the department shall request proposals in accordance with this section for all early childhood education programs from school districts, individually or in cooperation with other school districts or educational service units, working in cooperation with existing nonpublic programs which meet the requirements of subsection (2) of section 79-1104. If there is an endowment agreement in effect, the board of trustees shall administer the Early Childhood Education Grant Program with respect to programs for children from birth to age three pursuant to section 79-1104.02 and the department shall continue to administer the Early Childhood Education Grant Program with respect to other prekindergar-

ten programs pursuant to sections 79-1101 to 79-1104.05. All administrative procedures of the board of trustees, including, but not limited to, rules, grant applications, and funding mechanisms, shall harmonize with those established by the department for other prekindergarten programs.

(b) The first priority shall be for (i) continuation grants for programs that received grants in the prior school fiscal year and for which the state aid calculation pursuant to the Tax Equity and Educational Opportunities Support Act does not include early childhood education students, in an amount equal to the amount of such grant, except that if the grant was a first-year grant the amount shall be reduced by thirty-three percent, (ii) continuation grants for programs for which the state aid calculation pursuant to the act includes early childhood education students, in an amount equal to the amount of the grant for the school fiscal year prior to the first school fiscal year for which early childhood education students were included in the state aid calculation for the school district's local system minus the calculated state aid amount, and (iii) for school fiscal year 2007-08, continuation grants for programs for which the state aid calculation pursuant to the act includes early childhood education students, but such state aid calculation does not result in the school district receiving any equalization aid, in an amount equal to the amount of the grant received in school fiscal year 2006-07. The calculated state aid amount shall be calculated by multiplying the basic funding per formula student for the school district by the formula students attributed to the early childhood education programs pursuant to the Tax Equity and Educational Opportunities Support Act.

(c) The second priority shall be for new grants and expansion grants for programs that will serve at-risk children who will be eligible to attend kindergarten the following school year. New grants may be given for up to three years in an amount up to one-half of the total budget of the program per year. Expansion grants may be given for one year in an amount up to one-half of the budget for expanding the capacity of the program to serve additional children.

(d) The third priority shall be for new grants, expansion grants, and continuation grants for programs serving children younger than those who will be eligible to attend kindergarten the following school year. New grants may be given for up to three years in an amount up to one-half the total budget of the program per year. Expansion grants may be given for one year in an amount up to one-half the budget for expanding the capacity of the program to serve additional children. Continuation grants under this priority may be given annually in an amount up to one-half the total budget of the program per year minus any continuation grants received under the first priority.

(e) Programs serving children who will be eligible to attend kindergarten the following school year shall be accounted for separately for grant purposes from programs serving younger children, but the two types of programs may be combined within the same classroom to serve multi-age children. Programs that receive grants for school fiscal years prior to school fiscal year 2005-06 to serve both children who will be eligible to attend kindergarten the following school year and younger children shall account for the two types of programs separately for grant purposes beginning with school year 2005-06 and shall be deemed to have received grants prior to school fiscal year 2005-06 for each year that grants were received for the types of programs representing the age groups of the children served.

(2) Each program proposal which is approved by the department shall include (a) a planning period, (b) an agreement to participate in periodic evaluations of the program to be specified by the department, (c) evidence that the program will be coordinated or contracted with existing programs, including those listed in subdivision (d) of this subsection and nonpublic programs which meet the requirements of subsection (2) of section 79-1104, (d) a plan to coordinate and use a combination of local, state, and federal funding sources, including, but not limited to, programs for children with disabilities below five years of age funded through the Special Education Act, the Early Intervention Act, funds available through the flexible funding provisions under the Special Education Act, the federal Head Start program, 42 U.S.C. 9831 et seq., the federal Even Start Family Literacy Program, 20 U.S.C. 6361 et seq., Title I of the federal Improving America's Schools Act of 1994, 20 U.S.C. 6301 et seq., and child care assistance through the Department of Health and Human Services, (e) a plan to use sliding fee scales and the funding sources included in subdivision (d) of this subsection to maximize the participation of economically and categorically diverse groups and to ensure that participating children and families have access to comprehensive services, (f) the establishment of an advisory body which includes families and community members, (g) the utilization of appropriately qualified staff, (h) an appropriate child-to-staff ratio, (i) appropriate group size, (j) compliance with minimum health and safety standards, (k) appropriate facility size and equipment, (l) a strong family development and support component recognizing the central role of parents in their children's development, (m) developmentally and culturally appropriate curriculum, practices, and assessment, (n) sensitivity to the economic and logistical needs and circumstances of families in the provision of services, (o) integration of children of diverse social and economic characteristics, (p) a sound evaluation component, including at least one objective measure of child performance and progress, (q) continuity with programs in kindergarten and elementary grades, (r) instructional hours that are similar to or less than the instructional hours for kindergarten except that a summer session may be offered, (s) well-defined language development and early literacy emphasis, including the involvement of parents in family literacy activities, (t) a plan for ongoing professional development of staff, and (u) inclusion of children with disabilities as defined in the Special Education Act, all as specified by rules and regulations of the department in accordance with sound early childhood educational practice.

(3) The department shall make an effort to fund programs widely distributed across the state in both rural and urban areas.

(4) A report evaluating the programs shall be made to the State Board of Education and the Legislature by January 1 of each odd-numbered year. Up to five percent of the total appropriation for the Early Childhood Education Grant Program may be reserved by the department for evaluation and technical assistance for the programs.

(5) Early childhood education programs, whether established pursuant to this section or section 79-1104, may be approved for purposes of the Tax Equity and Educational Opportunities Support Act, expansion grants, and continuation grants on the submission of a continuation plan demonstrating that the program will meet the requirements of subsection (2) of this section and a proposed operating budget demonstrating that the program will receive resources from other sources equal to or greater than the sum of any grant received pursuant to this section for the prior school year plus any calculated

state aid as calculated pursuant to subsection (1) of this section for the prior school year.

(6) The State Board of Education may adopt and promulgate rules and regulations to implement the Early Childhood Education Grant Program, except that if there is an endowment agreement in effect, the board of trustees shall recommend any rules and regulations relating specifically to the Early Childhood Education Grant Program with respect to programs for children from birth to age three. It is the intent of the Legislature that the rules and regulations for programs for children from birth to age three be consistent to the greatest extent possible with those established for other prekindergarten programs.

**Source:** Laws 1990, LB 567, § 3; Laws 1991, LB 511, § 70; Laws 1992, LB 245, § 75; Laws 1993, LB 348, § 70; R.S.1943, (1994), § 79-3703; Laws 1996, LB 900, § 785; Laws 1997, LB 346, § 8; Laws 2001, LB 759, § 2; Laws 2005, LB 577, § 5; Laws 2006, LB 1256, § 2; Laws 2007, LB603, § 7; Laws 2008, LB1153, § 3; Laws 2010, LB1071, § 26; Laws 2011, LB235, § 24.  
Effective date April 27, 2011.

**Cross References**

**Early Intervention Act**, see section 43-2501.

**Special Education Act**, see section 79-1110.

**Tax Equity and Educational Opportunities Support Act**, see section 79-1001.

(b) GIFTED CHILDREN AND LEARNERS WITH HIGH ABILITY

**79-1108 Learners with high ability; identification and programs.**

Each school district shall identify learners with high ability and may provide accelerated or differentiated curriculum programs that will address the educational needs of the identified students at levels appropriate for the abilities of those students. The accelerated or differentiated curriculum programs shall meet the standards of quality established by the department. Educational service units may identify learners with high ability and provide accelerated or differentiated curriculum programs for school districts.

**Source:** Laws 1994, LB 647, § 3; R.S.1943, (1994), § 79-4003; Laws 1996, LB 900, § 790; Laws 1998, LB 1229, § 8; Laws 2011, LB333, § 14.

Effective date March 16, 2011.

**79-1108.02 Learners with high ability; curriculum programs; funding.**

(1) The department shall distribute amounts from the Education Innovation Fund pursuant to section 9-812 for purposes of subsection (2) of this section to local systems as defined in section 79-1003 annually on or before October 15.

The funds distributed pursuant to this section shall be distributed based on a pro rata share of the eligible costs submitted in grant applications.

(2) Local systems may apply to the department for base funds and matching funds pursuant to this section to be spent on approved accelerated or differentiated curriculum programs. Each eligible local system shall receive one-tenth of one percent of the appropriation as base funds plus a pro rata share of the remainder of the appropriation based on identified students participating in an accelerated or differentiated curriculum program, up to ten percent of the prior

year's fall membership as defined in section 79-1003, as matching funds. Eligible local systems shall:

- (a) Provide an approved accelerated or differentiated curriculum program for students identified as learners with high ability;
- (b) Provide funds from other sources for the approved accelerated or differentiated curriculum program greater than or equal to fifty percent of the matching funds received pursuant to this subsection;
- (c) Provide an accounting of the funds received pursuant to this section, funds required by subdivision (b) of this subsection, and the total cost of the program on or before August 1 of the year following the receipt of funds in a manner prescribed by the department, not to exceed one report per year;
- (d) Provide data regarding the academic progress of students participating in the accelerated or differentiated curriculum program in a manner prescribed by the department, not to exceed one report per year; and
- (e) Include identified students from Class I districts that are part of the local system in the accelerated or differentiated curriculum program.

If a local system will not be providing the necessary matching funds pursuant to subdivision (b) of this subsection, the local system shall request a reduction in the amount received pursuant to this subsection such that the local system will be in compliance with such subdivision. Local systems not complying with the requirements of this subsection shall not be eligible local systems in the following year.

**Source:** Laws 1998, LB 1229, § 10; Laws 2011, LB333, § 15.  
Effective date March 16, 2011.

(k) HIGH-NEEDS EDUCATION COORDINATOR

**79-11,150 Repealed. Laws 2011, LB 333, § 18.**

**ARTICLE 13**

**EDUCATIONAL TECHNOLOGY AND TELECOMMUNICATIONS**

(b) EDUCATIONAL TELECOMMUNICATIONS

Section

79-1316. Educational telecommunications; commission; powers; duties.

(b) EDUCATIONAL TELECOMMUNICATIONS

**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 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 the United States Secretary of Commerce and other 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 standard 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, providing program material for the Nebraska educational telecommunications network;

(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; and

(18) To maintain a library of films and videotapes which depict persons who appear to be significant or prominent in Nebraska history.

**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.  
Effective date August 27, 2011.

## ARTICLE 21

### LEARNING COMMUNITY

#### Section

- 79-2104. Learning community coordinating council; powers.  
79-2104.02. Learning community coordinating council; use of funds; report.  
79-2116. Elementary learning center; employees; terms and conditions of employment.  
79-2121. Plan to reduce excessive absenteeism; development and participation.

#### **79-2104 Learning community coordinating council; powers.**

A learning community coordinating council shall have the authority to:

- (1) Levy a common levy for the general funds of member school districts pursuant to sections 77-3442 and 79-1073;  
(2) Levy a common levy for the special building funds of member school districts pursuant to sections 77-3442 and 79-1073.01;  
(3) 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 subdivision (2)(h) of section 77-3442 and section 79-2111;

(4) Levy 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 pursuant to subdivision (2)(i) of section 77-3442, except that not more than ten percent of such levy may be used for elementary learning center employees;

(5) Collect, analyze, and report data and information, including, but not limited to, information provided by a school district pursuant to subsection (5) of section 79-201;

(6) Approve focus schools and focus programs to be operated by member school districts;

(7) Adopt, approve, and implement a diversity plan which shall include open enrollment and may include focus schools, focus programs, magnet schools, and pathways pursuant to section 79-2110;

(8) Administer the open enrollment provisions in section 79-2110 for the learning community as part of a diversity plan developed by the council to provide educational opportunities which will result in increased diversity in schools across the learning community;

(9) Annually conduct school fairs to provide students and parents the opportunity to explore the educational opportunities available at each school in the learning community and develop other methods for encouraging access to such information and promotional materials;

(10) Develop and approve reorganization plans for submission pursuant to the Learning Community Reorganization Act;

(11) Establish and administer elementary learning centers through achievement subcouncils pursuant to sections 79-2112 to 79-2114;

(12) Administer the learning community funds distributed to the learning community pursuant to section 79-2111;

(13) Approve or disapprove poverty plans and limited English proficiency plans for member school districts through achievement subcouncils established under section 79-2117;

(14) Establish a procedure for receiving community input and complaints regarding the learning community;

(15) Establish a procedure to assist parents, citizens, and member school districts in accessing an approved center pursuant to the Dispute Resolution Act to resolve disputes involving member school districts or the learning community. Such procedure may include payment by the learning community for some mediation services;

(16) Establish and administer pilot projects related to enhancing the academic achievement of elementary students, particularly students who face challenges in the educational environment due to factors such as poverty, limited English skills, and mobility; and

(17) Provide funding to public or private entities engaged in the juvenile justice system providing pre-filing and diversion programming designed to

reduce excessive absenteeism and unnecessary involvement with the juvenile justice system.

**Source:** Laws 2006, LB 1024, § 106; Laws 2007, LB641, § 40; Laws 2008, LB1154, § 18; Laws 2009, LB392, § 16; Laws 2010, LB1070, § 13; Laws 2011, LB463, § 20.  
Operative date May 12, 2011.

**Cross References**

**Dispute Resolution Act**, see section 25-2901.

**Learning Community Reorganization Act**, see section 79-4,117.

**79-2104.02 Learning community coordinating council; use of funds; report.**

Each learning community coordinating council shall use any funds received after January 15, 2011, pursuant to section 79-1241.03 for evaluation and research pursuant to plans developed by the learning community coordinating council with assistance from the educational service unit coordinating council and adjusted on an ongoing basis. The evaluation shall be conducted by one or more other entities or individuals who are not employees of the learning community and shall measure progress toward the goals and objectives of the learning community, which goals and objectives shall include reduction of excessive absenteeism of students in the member school districts of the learning community and closing academic achievement gaps based on socioeconomic status, and the effectiveness of the approaches used by the learning community or pilot project to reach such goals and objectives. Any research conducted pursuant to this section shall also be related to such goals and objectives. After the first full year of operation, each learning community shall report evaluation and research results to the Education Committee of the Legislature on or before December 1 of each year.

**Source:** Laws 2010, LB1070, § 17; Laws 2011, LB333, § 16; Laws 2011, LB463, § 21.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB333, section 16, with LB463, section 21, to reflect all amendments.

**Note:** Changes made by LB333 became effective March 16, 2011. Changes made by LB463 became operative May 12, 2011.

**79-2116 Elementary learning center; employees; terms and conditions of employment.**

Terms and conditions of employment of school employees providing services for an elementary learning center shall be established by the negotiated agreement of the learning community employing such school employees to provide services. For certificated employees as defined in section 79-824, the learning community shall be deemed to be a public employer as defined in section 48-801. Compensation paid to school employees for services provided to a learning community shall be subject to the School Employees Retirement Act unless such employee is employed by a Class V school district, in which case compensation paid such school employee shall be subject to the Class V School Employees Retirement Act.

**Source:** Laws 2007, LB641, § 48; Laws 2011, LB397, § 18.  
Operative date October 1, 2011.

**Cross References**

**Class V School Employees Retirement Act**, see section 79-978.01.

**School Employees Retirement Act**, see section 79-901.

**79-2121 Plan to reduce excessive absenteeism; development and participation.**

The superintendents of any school districts that are members of a learning community shall develop and participate in a plan by August 1, 2011, to reduce excessive absenteeism including a process to share information regarding at-risk youth with the goal of improving educational outcomes, providing effective interventions that impact risk factors, and reducing unnecessary penetration deeper into the juvenile justice system. For purposes of this section, at-risk youth means children who are under the supervision of the Office of Probation Administration, are committed to the care, custody, or supervision of the Department of Health and Human Services, are otherwise involved in the juvenile justice system, or have been absent from school for more than five days per quarter or the hourly equivalent except when excused by school authorities or when a documented illness makes attendance impossible or impracticable.

**Source:** Laws 2011, LB463, § 22.  
Operative date May 12, 2011.

**ARTICLE 22**

**INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN**

Section

- 79-2201. Compact; contents.
- 79-2202. Terms, defined.
- 79-2203. Department; duties; staff support.
- 79-2204. State Council on Educational Opportunity for Military Children; created; members; terms; expenses; duties.
- 79-2205. Compact commissioner; duties.
- 79-2206. Costs of administering compact.

**79-2201 Compact; contents.**

The Interstate Compact on Educational Opportunity for Military Children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

Interstate Compact on Educational  
Opportunity for Military Children

ARTICLE I

PURPOSE

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

- A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or variations in entrance or age requirements.
- B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

## ARTICLE II DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211.

B. "Children of military families" means school-aged children, enrolled in kindergarten through twelfth grade, in the household of an active duty member.

C. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

D. "Deployment" means the period one month prior to the service members' departure from their home station on military orders through six months after return to their home station.

E. "Education records" or "educational records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including, but not limited to, records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. "Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. "Interstate Commission on Educational Opportunity for Military Children" means the commission that is created under Article IX of this compact, which is generally referred to as Interstate Commission.

H. "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions.

I. "Member state" means a state that has enacted this compact.

J. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the

United States Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other United States territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. "Nonmember state" means a state that has not enacted this compact.

L. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

N. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other United States territory.

P. "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through twelfth grade.

Q. "Transition" means (1) the formal and physical process of transferring from school to school or (2) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. "Uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

S. "Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

### ARTICLE III APPLICABILITY

A. Except as otherwise provided in Section B, this compact shall apply to the children of:

1. active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211;

2. members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and

3. members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

- C. The provisions of this compact shall not apply to the children of:
1. inactive members of the National Guard and military reserves;
  2. members of the uniformed services now retired, except as provided in Section A;
  3. veterans of the uniformed services, except as provided in Section A; and
  4. other United States Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

## ARTICLE IV

## EDUCATIONAL RECORDS AND ENROLLMENT

A. Unofficial or "hand-carried" education records -- In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records and transcripts -- Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations -- Compacting states shall give thirty days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and first grade entrance age -- Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

## ARTICLE V

## PLACEMENT AND ATTENDANCE

A. Course placement -- When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending



state school or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes, but is not limited to, Honors, International Baccalaureate, Advanced Placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

B. Educational program placement -- The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state. Such programs include, but are not limited to: (1) gifted and talented programs; and (2) English as a second language. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services -- (1) In compliance with the federal requirements of the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on his or her current Individualized Education Program; and (2) In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C. 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C. 12131 to 12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility -- Local education agency administrative officials shall have flexibility in waiving course or program prerequisites, or other preconditions for placement in courses or programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities -- A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

## ARTICLE VI ELIGIBILITY

### A. Eligibility for enrollment

1. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or

other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

3. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

B. Eligibility for extracurricular participation -- State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

#### ARTICLE VII GRADUATION

In order to facilitate the on-time graduation of children of military families states and local education agencies shall incorporate the following procedures:

A. Waiver requirements -- Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams -- States shall accept: (1) exit or end-of-course exams required for graduation from the sending state; (2) national norm-referenced achievement tests; or (3) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her senior year, then the provisions of Article VII, Section C shall apply.

C. Transfers during senior year -- Should a military student transferring at the beginning or during his or her senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Sections A and B of this Article.

#### ARTICLE VIII STATE COORDINATION

A. Each member state shall, through the creation of a state council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own state council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the state council deems appro-

priate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the state council.

B. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated herein shall be ex-officio members of the state council, unless either is already a full voting member of the state council.

#### ARTICLE IX

#### INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or state council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex officio, nonvoting representatives who are members of interested organizations. Such ex officio members, as defined in the bylaws, may include, but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the United States Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The United States Department of Defense, shall serve as an ex officio, nonvoting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;
2. Disclose matters specifically exempted from disclosure by federal and state statute;
3. Disclose trade secrets or commercial or financial information which is privileged or confidential;
4. Involve accusing a person of a crime, or formally censuring a person;
5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. Disclose investigative records compiled for law enforcement purposes; or
7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. Cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. 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 Interstate Commission.

I. Collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Such methods of data collection, exchange, and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. Create a process that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission or any member state.

#### ARTICLE X

##### POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

- A. To provide for dispute resolution among member states.
- B. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact.
- C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions.
- D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including, but not limited to, the use of judicial process.
- E. To establish and maintain offices which shall be located within one or more of the member states.
- F. To purchase and maintain insurance and bonds.
- G. To borrow, accept, hire, or contract for services of personnel.
- H. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.
- I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.
- J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.
- K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.
- L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.
- M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate education, training, and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity.

Q. To establish uniform standards for the reporting, collecting, and exchanging of data.

R. To maintain corporate books and records in accordance with the bylaws.

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

T. To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

#### ARTICLE XI

##### ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall, by a majority of the members present and voting, within twelve months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;
2. Establishing an executive committee and such other committees as may be necessary;
3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;
4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each such meeting;
5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;
6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and
7. Providing “start up” rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson’s absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and

necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, Officers, and Personnel

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including, but not limited to:

a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;

b. Overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

c. Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.

2. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or

alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

#### ARTICLE XII

##### RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rulemaking Authority -- The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rulemaking Procedure -- Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act" of 1981, Uniform Laws Annotated, Vol. 15, p. 1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than thirty days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

#### ARTICLE XIII

##### OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

###### A. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission.



3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact, or promulgated rules.

B. Default, Technical Assistance, Suspension, and Termination -- If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default.

2. Provide remedial training and specific technical assistance regarding the default.

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact shall be terminated from 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 the default.

4. Suspension or 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 Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

5. The state which has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.

6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

7. The defaulting state may appeal the action of the Interstate Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

#### C. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and nonmember states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

#### D. Enforcement

1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The Interstate Commission, may by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against a member state in default. 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.

3. The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

#### ARTICLE XIV

##### FINANCING OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

#### ARTICLE XV

##### MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XVI  
WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute, which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member jurisdiction.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVII  
SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII  
BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

**B. Binding Effect of the Compact**

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

**Source:** Laws 2011, LB575, § 1.  
Operative date July 1, 2012.

**79-2202 Terms, defined.**

For purposes of the Interstate Compact on Educational Opportunity for Military Children and sections 79-2202 to 79-2206:

(1) Council means the State Council on Educational Opportunity for Military Children;

(2) Department means the State Department of Education;

(3) Local education agency means a school district as defined in section 79-101; and

(4) State superintendent of education means the Commissioner of Education.

**Source:** Laws 2011, LB575, § 2.  
Operative date July 1, 2012.

**79-2203 Department; duties; staff support.**

The department shall oversee and provide coordination for the state's participation in and compliance with the Interstate Compact on Educational Opportunity for Military Children. The department shall provide staff support for the council created in section 79-2204.

**Source:** Laws 2011, LB575, § 3.  
Operative date July 1, 2012.

**79-2204 State Council on Educational Opportunity for Military Children; created; members; terms; expenses; duties.**

(1) The State Council on Educational Opportunity for Military Children is created within the department. The council shall consist of:

(a) The following ex officio members:

(i) The Commissioner of Education;

(ii) The chairperson of the Education Committee of the Legislature, who shall serve as a nonvoting member of the council;

(iii) The compact commissioner appointed pursuant to section 79-2205; and

(iv) The military family education liaison, who shall serve as a member of the council after his or her appointment pursuant to subsection (3) of this section; and

(b) The following members appointed by the State Board of Education:

(i) The superintendent of a school district that has a high concentration of children of military families; and

(ii) A representative of a military installation located in this state.

(2) The members of the council appointed by the State Board of Education shall serve three-year terms. Vacancies in the council shall be filled in the same manner as the initial appointments. The members of the council shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(3) The council shall have the following duties:

(a) To advise the department with regard to the state's participation in and compliance with the Interstate Compact on Educational Opportunity for Military Children; and

(b) To appoint a military family education liaison to assist families and the state in implementing the compact.

**Source:** Laws 2011, LB575, § 4.

Operative date July 1, 2012.

**79-2205 Compact commissioner; duties.**

The deputy commissioner of education shall serve as the compact commissioner and shall be responsible for administering the state's participation in the Interstate Compact on Educational Opportunity for Military Children.

**Source:** Laws 2011, LB575, § 5.

Operative date July 1, 2012.

**79-2206 Costs of administering compact.**

The department shall distribute amounts from the Education Innovation Fund pursuant to section 9-812 and may accept a devise, donation, or bequest to pay for any or all of the cost of administering the Interstate Compact on Educational Opportunity for Military Children under the authority given to the State Board of Education under section 79-318.

**Source:** Laws 2011, LB575, § 6.

Operative date July 1, 2012.



STATE ADMINISTRATIVE DEPARTMENTS

**CHAPTER 81**  
**STATE ADMINISTRATIVE DEPARTMENTS**

Article.

1. The Governor and Administrative Departments.
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2. Department of Agriculture.
  - (p) Beekeeping. 81-2,181.
5. State Fire Marshal.
  - (b) General Provisions. 81-520.01 to 81-520.05.
7. Department of Roads.
  - (a) General Powers. 81-701.05.
8. Independent Boards and Commissions.
  - (b) Intergovernmental Cooperation. 81-816 to 81-819.
  - (c) Emergency Management. 81-829.36, 81-829.67.
  - (g) Real Estate Commission. 81-885.14 to 81-885.53.
  - (j) State Athletic Commissioner. 81-8,128.
  - (p) Tort Claims, State Claims Board, and Risk Management Program. 81-8,219 to 81-8,239.02.
11. Department of Administrative Services.
  - (a) General Provisions. 81-1108.33 to 81-1120.29.
12. Department of Economic Development.
  - (a) General Provisions. 81-1201.11 to 81-1213.
  - (d) Property Controlled by Department. 81-1222.01, 81-1222.03.
  - (f) Nebraska Visitors Development Act. 81-1255, 81-1260.
  - (g) Venture Capital Network Act. 81-1265 to 81-1271. Repealed.
  - (h) Business Development Partnership Act. 81-1273 to 81-1277.
  - (m) Microenterprise Development Act. 81-1295 to 81-12,105.01. Repealed.
  - (p) Building Entrepreneurial Communities Act. 81-12,125 to 81-12,128. Repealed.
  - (q) Nebraska Operational Assistance Act. 81-12,135.
  - (r) Small Business Innovation Act. 81-12,136 to 81-12,143.
  - (s) Site and Building Development Act. 81-12,144 to 81-12,151.
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## ARTICLE 1

## THE GOVERNOR AND ADMINISTRATIVE DEPARTMENTS

## (f) DEFERRED BUILDING RENEWAL AND MAINTENANCE

## Section

- 81-173. Terms, defined.  
 81-176. Task force; review; report.  
 81-188. Energy audit report.  
 81-188.01. State Building Renewal Assessment Fund; created; use; investment.  
 81-188.02. Repealed. Laws 2011, LB 380, § 6.  
 81-188.03. University Building Renewal Assessment Fund; created; use; investment.  
 81-188.04. Repealed. Laws 2011, LB 380, § 6.  
 81-188.05. State College Building Renewal Assessment Fund; created; use; investment.  
 81-188.06. Repealed. Laws 2011, LB 380, § 6.  
 81-190. Act, how cited.  
 81-191.01. Repealed. Laws 2011, LB 228, § 5.

## (f) DEFERRED BUILDING RENEWAL AND MAINTENANCE

**81-173 Terms, defined.**

For purposes of the Deferred Building Renewal Act and sections 85-106 and 85-304, unless the context otherwise requires:

(1) Renewal work means any (a) deferred or preventive maintenance projects that will restore facilities and utility systems as closely as practicable to their original constructed condition as defined by the Task Force for Building Renewal, (b) projects that will bring facilities into compliance with current fire safety, life safety, and hazardous materials abatement requirements, and (c) projects that will bring facilities into compliance with the federal Americans with Disabilities Act of 1990. The standard of quality maintenance shall be set after consideration of the facility users, geographical location, condition, and physical analysis of each building;

(2) Deferred maintenance means any measures taken to: (a) Correct or repair structural or mechanical defects that would endanger the integrity of a building or its components or allow unwanted penetration of the building by the outdoor elements; (b) correct or repair structural, mechanical, or other defects in a building or its components or utility systems which endanger the lives or health of state employees or the general public; (c) bring a building into compliance with the federal Americans with Disabilities Act of 1990; (d) correct a waste of energy, including minor repairs, alteration and maintenance painting, cost of materials, hiring of building maintenance personnel, and other necessary expenses for the maintenance of roofs, exterior walls, retaining walls, foundations, flooring, ceilings, partitions, doors, building hardware, windows, plaster, structural ironwork, screens, plumbing, heating, air-handling, and air conditioning equipment, or electrical systems, but excluding decorative finish or furnishing or building additions; or (e) conduct an energy audit;

(3) Preventive maintenance means any measures taken to maintain the structural or mechanical integrity of a building or its components including those measures listed in subdivision (2) of this section; and

(4) Task force means the Task Force for Building Renewal.

**Source:** Laws 1977, LB 309, § 1; Laws 1980, LB 835, § 1; Laws 1982, LB 604, § 1; Laws 1993, LB 369, § 1; Laws 1998, LB 1100, § 14; Laws 1998, LB 1129, § 15; Laws 2011, LB228, § 1.  
 Effective date August 27, 2011.



**81-176 Task force; review; report.**

The task force shall conduct a review of the plans, specifications, and other construction and repair documents and ongoing maintenance requirements for real property, structures, or improvements that may be proposed to be made available to any state agency, board, or commission by means of gift, bequest, or devise and any acquisition of real property, structures, or improvements with the proceeds of a donation, gift, bequest, devise, and grant from an individual, an organization, a corporation, a foundation, or a similar entity or from a nonfederal governmental agency pursuant to section 81-1108.33. The task force shall submit a report of its findings and recommendations to the Committee on Building Maintenance.

**Source:** Laws 1999, LB 369, § 2; Laws 2011, LB264, § 3.  
Effective date March 11, 2011.

**81-188 Energy audit report.**

A report of the findings of any energy audit conducted under the Deferred Building Renewal Act shall be sent electronically to the state agency operating or managing the state-owned building, utility, or ground on which the audit was conducted and the Committee on Building Maintenance of the Legislature.

**Source:** Laws 2011, LB228, § 3.  
Effective date August 27, 2011.

**81-188.01 State Building Renewal Assessment Fund; created; use; investment.**

(1) The State Building Renewal Assessment Fund is created. The fund shall be under the control of the Governor for allocation to building renewal projects of the various agencies and shall be administered in a manner consistent with the administration of the Building Renewal Allocation Fund pursuant to the Deferred Building Renewal Act. No amounts accruing to the State Building Renewal Assessment Fund shall be expended in any manner for purposes other than as provided in this section or as appropriated by the Legislature to meet the cost of administering the act. Transfers may be made from the fund to the General Fund at the direction of the Legislature.

(2) Revenue credited to the State Building Renewal Assessment Fund shall include amounts derived from charges assessed pursuant to subdivision (4)(b) of section 81-1108.17 and such other revenue as may be incident to the administration of the fund.

(3) Amounts appropriated from the fund shall be expended to conduct renewal work as defined in section 81-173 and to complete other improvements incident to such renewal work as deemed necessary or appropriate by the task force. From amounts accruing to the fund as the result of depreciation charges assessed pursuant to subdivision (4)(b) of section 81-1108.17, expenditures for capital improvements shall be limited to improvements to only those facilities for which such charges have been assessed and remitted. From amounts accruing to the fund as the result of depreciation charges assessed pursuant to section 81-188.02 prior to July 1, 2011, expenditures for capital improvement projects shall be limited to exclude (a) capital improvement projects relating to facilities, structures, or buildings owned, leased, or operated by the (i) University of Nebraska, (ii) Nebraska state colleges, (iii) Department of Aeronautics, (iv) Department of Roads, (v) Game and Parks Commission, or (vi) Board of

Educational Lands and Funds and (b) capital improvement projects relating to facilities, structures, or buildings for which depreciation charges are assessed pursuant to subdivision (4)(b) of section 81-1108.17.

(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 1998, LB 1100, § 8; Laws 2000, LB 654, § 22; Laws 2002, LB 1310, § 13; Laws 2002, Second Spec. Sess., LB 1, § 6; Laws 2003, LB 410, § 4; Laws 2004, LB 439, § 15; Laws 2004, LB 1092, § 2; Laws 2009, First Spec. Sess., LB3, § 61; Laws 2011, LB380, § 1.

Operative date July 1, 2011.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

**81-188.02 Repealed. Laws 2011, LB 380, § 6.**

Operative date July 1, 2011.

**81-188.03 University Building Renewal Assessment Fund; created; use; investment.**

(1) The University Building Renewal Assessment Fund is created. The fund shall be under the control of the Governor for allocation to building renewal projects and to building renovation projects of the University of Nebraska. No amounts accruing to the University Building Renewal Assessment Fund shall be transferred to any other fund and no amounts accruing to the fund shall be expended in any manner for purposes other than as provided in this section or as appropriated by the Legislature to meet the cost of administering the Deferred Building Renewal Act.

(2) Revenue credited to the fund shall include amounts as provided by the Legislature and such other revenue as may be incident to the administration of the fund.

(3) Amounts appropriated from the fund shall be expended to conduct renewal work as defined in section 81-173, to conduct renovation work, and to complete other improvements incident to such renewal or renovation work as deemed necessary or appropriate by the task force. Expenditures from the fund for capital improvements shall be limited to exclude expenditures for capital improvement projects relating to facilities, structures, or buildings from which revenue is derived and pledged for the retirement of revenue bonds issued under sections 85-403 to 85-411.

(4) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) For purposes of this section, renovation work means work to replace the interior or exterior systems of an existing building to accommodate changes in use of building space or changes in programmatic need for building space.

**Source:** Laws 1998, LB 1100, § 10; Laws 2002, LB 1310, § 15; Laws 2003, LB 410, § 6; Laws 2004, LB 1092, § 4; Laws 2011, LB380, § 2.

Operative date July 1, 2011.

## Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

**81-188.04 Repealed. Laws 2011, LB 380, § 6.**

Operative date July 1, 2011.

**81-188.05 State College Building Renewal Assessment Fund; created; use; investment.**

(1) The State College Building Renewal Assessment Fund is created. The fund shall be under the control of the Governor for allocation to building renewal projects and building renovation projects of the Nebraska state colleges. No amounts accruing to the State College Building Renewal Assessment Fund shall be transferred to any other fund and no amounts accruing to the fund shall be expended in any manner for purposes other than as provided in this section or as appropriated by the Legislature to meet the cost of administering the Deferred Building Renewal Act.

(2) Revenue credited to the fund shall include amounts as provided by the Legislature and such other revenue as may be incident to administration of the fund.

(3) Amounts appropriated from the fund shall be expended to conduct renewal work as defined in section 81-173, to conduct renovation work, and to complete other improvements incident to such renewal or renovation work as deemed necessary or appropriate by the task force. Expenditures from the fund for capital improvements shall be limited to exclude expenditures for capital improvement projects relating to facilities, structures, or buildings from which revenue is derived and pledged for the retirement of revenue bonds issued under sections 85-403 to 85-411.

(4) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) For purposes of this section, renovation work means work to replace the interior or exterior systems of an existing building to accommodate changes in use of building space or changes in programmatic need for building space.

**Source:** Laws 1998, LB 1100, § 12; Laws 2002, LB 1310, § 17; Laws 2003, LB 410, § 8; Laws 2004, LB 1092, § 6; Laws 2011, LB380, § 3.

Operative date July 1, 2011.

## Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

**81-188.06 Repealed. Laws 2011, LB 380, § 6.**

Operative date July 1, 2011.

**81-190 Act, how cited.**

Sections 81-173 to 81-190 shall be known and may be cited as the Deferred Building Renewal Act.

**Source:** Laws 1977, LB 309, § 18; Laws 1998, LB 1100, § 20; Laws 1999, LB 369, § 1; Laws 2011, LB228, § 2.

Effective date August 27, 2011.

**81-191.01 Repealed. Laws 2011, LB 228, § 5.**

**ARTICLE 2**

**DEPARTMENT OF AGRICULTURE**

(p) BEEKEEPING

Section

81-2,181. Honey; Department of Agriculture; adopt standard; label restrictions; violation; remedy or penalty.

(p) BEEKEEPING

**81-2,181 Honey; Department of Agriculture; adopt standard; label restrictions; violation; remedy or penalty.**

(1) It is the intent of the Legislature to provide for an identity standard for packaged food products labeled as honey in order to aid consumer information and to protect the integrity of the honey industry in Nebraska.

(2) The Department of Agriculture shall adopt and promulgate rules and regulations that adopt a standard for all honeys produced by honey bees. In promulgating a standard for honey, the department may utilize as a guideline available authoritative references to the composition and grades of honey. Such rules and regulations shall be effective on or before January 1, 2012.

(3) A product shall not be labeled as honey or be labeled as to imply that the product is honey unless the product meets the standard for honey adopted by the Department of Agriculture under subsection (2) of this section.

(4) A violation of subsection (3) of this section shall constitute a deceptive trade practice under the Uniform Deceptive Trade Practices Act and shall be subject to any remedies or penalties available for a violation under the act.

**Source:** Laws 2011, LB114, § 1.

Effective date August 27, 2011.

**Cross References**

**Uniform Deceptive Trade Practices Act**, see section 87-306.

**ARTICLE 5**

**STATE FIRE MARSHAL**

(b) GENERAL PROVISIONS

Section

81-520.01. Statewide open burning ban; waiver; permit; fee.

81-520.03. Land-management burning, defined; fire chief of local fire department; designate member of department.

81-520.04. Land-management burning; permit; issuance; when.

81-520.05. Land-management burning; application for permit; plan; contents; fire chief; duties.

(b) GENERAL PROVISIONS

**81-520.01 Statewide open burning ban; waiver; permit; fee.**

(1) There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land.

(2) The fire chief of a local fire department may waive an open burning ban under subsection (1) of this section for an area under the local fire department's

jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. The permit issued by the fire chief to a person desiring to conduct open burning shall be in writing, signed by the fire chief, and on a form prescribed by the State Fire Marshal. The State Fire Marshal shall provide local fire departments with such forms.

(3) The fire chief of a local fire department may waive the open burning ban in the local fire department's jurisdiction when conditions are acceptable to the chief. Anyone intending to burn in such jurisdiction when the open burning ban has been waived shall notify the fire chief of his or her intention to burn prior to starting the burn.

(4) The fire chief of a local fire department may adopt standards listing the conditions acceptable for issuing a permit to conduct open burning under subsection (2) of this section.

(5) The local fire department may charge a fee, not to exceed ten dollars, for each such permit issued. This fee shall be remitted to the governing body for inclusion in the general funds allocated to the fire department. Such funds shall not reduce the tax requirements for the fire department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under subsection (2) of this section in the course of such state's or political subdivision's official duties.

**Source:** Laws 1980, LB 810, § 2; Laws 1982, LB 790, § 1; Laws 1994, LB 408, § 1; Laws 2011, LB248, § 1.  
Effective date August 27, 2011.

**81-520.03 Land-management burning, defined; fire chief of local fire department; designate member of department.**

(1) For purposes of sections 81-520.01 to 81-520.05, the fire chief of a local fire department may designate a member of the local fire department to share the powers and duties of the fire chief under such sections, except adopting standards pursuant to subsection (4) of section 81-520.01.

(2) For purposes of sections 81-520.04 and 81-520.05, land-management burning means the controlled application of fire to existing vegetative matter on land utilized for grazing, pasture, forests, or grassland to control weeds, pests, insects, and disease, prevent wildland fires, manage watersheds, care for windbreaks, and conduct scientific research.

**Source:** Laws 1994, LB 408, § 3; Laws 2011, LB248, § 2.  
Effective date August 27, 2011.

**81-520.04 Land-management burning; permit; issuance; when.**

The fire chief of a local fire department may waive an open burning ban under subsection (1) of section 81-520.01 by issuing a permit for land-management burning only if the land-management burning is to be conducted in accordance with section 81-520.05.

**Source:** Laws 1994, LB 408, § 4; Laws 2011, LB248, § 3.  
Effective date August 27, 2011.

**81-520.05 Land-management burning; application for permit; plan; contents; fire chief; duties.**

(1) A landowner, tenant, or other landowner's agent of the land where land-management burning is proposed shall file an application for a permit and a plan for conducting such burning. The plan shall include:

- (a) The name of the landowner of the land on which land-management burning is to occur;
- (b) The name of the person who will supervise the land-management burning if such person is different than the landowner;
- (c) The land-management objective to be accomplished;
- (d) A map showing the areas to be burned, including natural and manmade firebreaks;
- (e) Procedures to be used to confine the fire in boundary areas without preexisting firebreaks;
- (f) A list of equipment that will be on hand;
- (g) The types and conditions of the vegetative matter to be burned on the land and in adjacent areas;
- (h) Identification of roads and habitations that may be affected by smoke;
- (i) A description of weather conditions believed to be required to safely and successfully conduct the land-management burning, including wind speed and direction, temperature, and relative humidity; and
- (j) Such other information as may be prescribed by the fire chief of a local fire department.

(2) The fire chief of a local fire department shall evaluate each plan to determine its compliance with subsection (1) of this section. If a plan fails to comply with all provisions of such subsection, a permit for land-management burning shall not be issued.

(3) The fire chief of a local fire department shall issue a permit for land-management burning if (a) the plan complies with subsection (1) of this section and (b) the fire chief determines that land-management burning conducted in accordance with the plan would be conducted with due regard for the safety of people and property outside the burning areas. No permit shall be valid for more than thirty days.

**Source:** Laws 1994, LB 408, § 5; Laws 2011, LB248, § 4.  
Effective date August 27, 2011.

## ARTICLE 7

### DEPARTMENT OF ROADS

#### (a) GENERAL POWERS

Section

81-701.05. Nebraska Railway Council agreement with railroad; oversight.

#### (a) GENERAL POWERS

#### **81-701.05 Nebraska Railway Council agreement with railroad; oversight.**

The Department of Roads shall oversee any outstanding agreement between a railroad and the Nebraska Railway Council as of August 27, 2011, including making any outstanding payment due to a railroad.

**Source:** Laws 2011, LB259, § 2.  
Effective date August 27, 2011.

## ARTICLE 8

## INDEPENDENT BOARDS AND COMMISSIONS

## (b) INTERGOVERNMENTAL COOPERATION

## Section

81-816. Repealed. Laws 2011, LB 326, § 1.

81-817. Repealed. Laws 2011, LB 326, § 1.

81-819. Repealed. Laws 2011, LB 326, § 1.

## (c) EMERGENCY MANAGEMENT

81-829.36. Act, how cited.

81-829.67. Storm spotter or emergency management worker; training, identification, and credentialing.

## (g) REAL ESTATE COMMISSION

81-885.14. Fees; license; renewal; procedure.

81-885.17. Nonresident broker's license; nonresident salesperson's license; issuance; requirements; fingerprinting; criminal history record information check; reciprocal agreements.

81-885.19. License; form; broker's branch office; license; fee.

81-885.20. Broker, salesperson; change in place of business or status; notify commission; fee.

81-885.21. Broker; separate trust account; notify commission where maintained; examination by representative of commission; broker entitled to money; when.

81-885.24. Commission; investigative powers; disciplinary powers; civil fine; violations of unfair trade practices.

81-885.49. Continuing education and training; purpose.

81-885.51. Continuing education and training; evidence of completion.

81-885.52. Continuing education and training; certify activities.

81-885.53. Continuing education and training; licensee; requirements.

## (j) STATE ATHLETIC COMMISSIONER

81-8,128. State Athletic Commissioner; appointment; term; salary; bond or insurance; assistants.

## (p) TORT CLAIMS, STATE CLAIMS BOARD, AND RISK MANAGEMENT PROGRAM

81-8,219. State Tort Claims Act; claims exempt.

81-8,239.01. Risk Management Program; risk management and state claims division of the Department of Administrative Services; established; Risk Manager; powers and duties.

81-8,239.02. State Insurance Fund; State Self-Insured Property Fund; State Self-Insured Indemnification Fund; State Self-Insured Liability Fund; created; purposes.

## (b) INTERGOVERNMENTAL COOPERATION

**81-816 Repealed. Laws 2011, LB 326, § 1.****81-817 Repealed. Laws 2011, LB 326, § 1.****81-819 Repealed. Laws 2011, LB 326, § 1.**

## (c) EMERGENCY MANAGEMENT

**81-829.36 Act, how cited.**

Sections 81-829.36 to 81-829.75 shall be known and may be cited as the Emergency Management Act.

**Source:** Laws 1951, c. 315, § 1, p. 1073; R.R.S.1943, § 81-829.05; Laws 1973, LB 494, § 1; Laws 1996, LB 43, § 17; Laws 2011, LB573, § 2.

Effective date August 27, 2011.

**81-829.67 Storm spotter or emergency management worker; training, identification, and credentialing.**

(1) The Nebraska Emergency Management Agency shall develop training, identification, and credentialing standards for a storm spotter or emergency management worker.

(2) For purposes of this section, storm spotter means an individual who performs weather spotting services as an employee or a volunteer of a local emergency management organization and who has been credentialed by the Nebraska Emergency Management Agency under this section.

**Source:** Laws 2011, LB573, § 3.

Effective date August 27, 2011.

**(g) REAL ESTATE COMMISSION****81-885.14 Fees; license; renewal; procedure.**

(1) To pay the expense of the maintenance and operation of the office of the commission and the enforcement of the Nebraska Real Estate License Act, the commission shall, at the time an application is submitted, collect from an applicant for each broker's or salesperson's examination a fee to be established by the commission of not more than two hundred fifty dollars and an application fee of not more than two hundred fifty dollars. The commission shall also collect a reexamination fee to be established by the commission of not more than two hundred fifty dollars for each reexamination. The commission may direct an applicant to pay the examination or reexamination fee to a third party who has contracted with the commission to administer the examination. Prior to the issuance of an original license, each applicant who has passed the examination required by section 81-885.13 or who has received a license under section 81-885.17 shall pay a license fee to be established by the commission. The license fee established by the commission shall not exceed the following amounts: For a broker's license, not more than two hundred fifty dollars; and for a salesperson's license, not more than two hundred dollars.

(2) After the original issuance of a license, a renewal application and a renewal fee to be established by the commission of not more than five hundred dollars for each broker, and not more than four hundred dollars for each salesperson, shall be due and payable on or before November 30 of each renewal year. A broker or salesperson who: (a) Is required to submit evidence of completion of continuing education pursuant to section 81-885.51 on or before November 30, 2011, shall renew his or her license on or before such date for two years; (b) is not required to submit evidence of completion of continuing education until November 30, 2012, shall renew his or her license on or before November 30, 2011, for one year and shall renew his or her license on or before November 30, 2012, for two years; or (c) receives his or her original license on or after January 1, 2011, shall renew his or her license on or before the immediately following November 30 for two years. Each subsequent renewal under subdivisions (a), (b), and (c) of this subsection shall be for a two-year period and shall be due on or before November 30 of each renewal year. Failure to remit renewal fees when due shall automatically cancel such license on December 31 of the renewal year, but otherwise the license shall remain in full force and effect continuously from the date of issuance unless suspended or revoked by the commission for just cause. Any licensee who fails to file an



application for the renewal of any license and pay the renewal fee as provided in this section may file a late renewal application and shall pay, in addition to the renewal fee, an amount to be established by the commission of not more than twenty-five dollars for each month or fraction thereof beginning with the first day of December if such late application is filed before July 1 of the ensuing year.

(3) Any check presented to the commission as a fee for either an original or renewal license or for examination for license which is returned to the State Treasurer unpaid or any electronic payment presented to the commission as a fee for either an original or renewal license or for examination for license that is not accepted against the commission shall be cause for revocation or denial of license.

(4) An inactive broker or salesperson may renew his or her license by submitting an application before December 1 prior to the ensuing year. Such broker or salesperson shall submit the renewal fee together with the completed renewal application on which he or she has noted his or her present inactive status. Any broker or salesperson whose license has been renewed on such inactive status shall not be permitted to engage in the real estate business until such time as he or she fulfills the requirements for active status. Any license which has been inactive for a continuous period of more than three years shall be reinstated only if the licensee has met the examination requirement of an original applicant.

**Source:** Laws 1973, LB 68, § 14; Laws 1976, LB 899, § 1; Laws 1978, LB 361, § 7; Laws 1980, LB 936, § 2; Laws 1983, LB 182, § 13; Laws 1990, LB 350, § 6; Laws 1991, LB 118, § 3; Laws 1991, LB 204, § 2; Laws 2009, LB11, § 1; Laws 2011, LB23, § 1.  
Effective date August 27, 2011.

**81-885.17 Nonresident broker's license; nonresident salesperson's license; issuance; requirements; fingerprinting; criminal history record information check; reciprocal agreements.**

(1)(a) A nonresident of this state who is actively engaged in the real estate business, who maintains a place of business in his or her resident regulatory jurisdiction, and who has been duly licensed in that regulatory jurisdiction to conduct such business in that regulatory jurisdiction may, in the discretion of the commission, be issued a nonresident broker's license.

(b) A nonresident salesperson employed by a broker holding a nonresident broker's license may, in the discretion of the commission, be issued a nonresident salesperson's license under such nonresident broker.

(c) A nonresident who becomes a resident of the State of Nebraska and who holds a broker's or salesperson's license in his or her prior resident regulatory jurisdiction shall be issued a resident broker's or salesperson's license upon filing an application, paying the applicable license fee, complying with the criminal history record information check under subsection (4) of this section, filing the affidavit required by subsection (7) of this section, and providing to the commission adequate proof of completion of a three-hour class approved by the commission specific to the Nebraska Real Estate License Act and sections 76-2401 to 76-2430.

(2) Obtaining a nonresident broker's license shall constitute sufficient contact with this state for the exercise of personal jurisdiction over the licensee in any action arising out of the licensee's activity in this state.

(3) Prior to the issuance of any license to any nonresident, he or she shall file with the commission a duly certified copy of the license issued to the applicant by the resident regulatory jurisdiction, pay to the commission the nonresident license fee as provided in section 81-885.14 for the obtaining of a broker's or salesperson's license, and provide to the commission adequate proof of completion of a three-hour class approved by the commission specific to the Nebraska Real Estate License Act and sections 76-2401 to 76-2430.

(4) An applicant for an original nonresident broker's or salesperson's license shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol. Each applicant shall furnish to the Nebraska State Patrol a full set of fingerprints to enable a criminal background investigation to be conducted. The applicant shall request that the Nebraska State Patrol submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The applicant shall pay the actual cost, if any, of the fingerprinting and check of his or her criminal history record information. The applicant shall authorize release of the national criminal history record check to the commission. The criminal history record information check shall be completed within ninety days preceding the date the original application for a license is received in the commission's office, and if not, the application shall be returned to the applicant.

(5) Nothing in this section shall preclude the commission from entering into reciprocal agreements with other regulatory jurisdictions when such agreements are necessary to provide Nebraska residents authority to secure licenses in other regulatory jurisdictions.

(6) Nonresident licenses granted as provided in this section shall remain in force for only as long as the requirements of issuing and maintaining a license are met unless (a) suspended or revoked by the commission for just cause or (b) lapsed for failure to pay the annual renewal fee.

(7) Prior to the issuance of any license to a nonresident applicant, an affidavit shall be filed by the applicant with the commission certifying that the applicant has reviewed and is familiar with the Nebraska Real Estate License Act and the rules and regulations of the commission and agrees to be bound by the act, rules, and regulations. Within ninety days after the issuance of a license to a nonresident licensee prior to July 18, 2008, the licensee shall provide to the commission adequate proof of completion of a three-hour class approved by the commission specific to the Nebraska Real Estate License Act and the law of agency relationships enumerated in sections 76-2401 to 76-2430. If the licensee fails to provide adequate proof of completion of the approved class to the commission within the ninety-day period, the director of the commission or his or her designee shall place the license on inactive status and notify the licensee that he or she must show cause why the license should not be revoked.

**Source:** Laws 1973, LB 68, § 17; Laws 1980, LB 936, § 3; Laws 1983, LB 182, § 15; Laws 1983, LB 447, § 95; Laws 1990, LB 350, § 7; Laws 2002, LB 863, § 15; Laws 2003, LB 60, § 2; Laws 2006, LB 819, § 2; Laws 2008, LB715, § 1; Laws 2011, LB25, § 16.  
Effective date August 27, 2011.

**81-885.19 License; form; broker's branch office; license; fee.**

The commission shall prescribe the form of license. Each license shall have placed thereon the seal of the commission. The license of each salesperson and associate broker shall be delivered or mailed to the broker by whom the salesperson or associate broker is employed and shall be kept in the custody and control of such broker. It is the duty of each broker to display his or her own license and those of his or her associate brokers and salespersons conspicuously in his or her place of business. If a broker maintains more than one place of business within the state, a branch office license shall be issued to such broker for each branch office so maintained by him or her upon the payment of an annual fee to be established by the commission of not more than fifty dollars and the branch office license shall be displayed conspicuously in each branch office. The broker or an associate broker shall be the manager of a branch office.

**Source:** Laws 1973, LB 68, § 19; Laws 1983, LB 182, § 17; Laws 1990, LB 350, § 9; Laws 1991, LB 204, § 3; Laws 2002, LB 863, § 17; Laws 2009, LB29, § 1; Laws 2011, LB23, § 2.  
Effective date August 27, 2011.

**81-885.20 Broker, salesperson; change in place of business or status; notify commission; fee.**

(1) Should the broker change his or her place of business, he or she shall forthwith notify the commission in writing of such change.

(2) When a salesperson or associate broker leaves the employ of a broker, the employing broker shall immediately forward the license of such employee to the commission and shall furnish such information regarding the termination of employment as the commission may require.

(3) When a salesperson or associate broker transfers from one employing broker to another, when an associate broker changes his or her status from associate broker to that of broker, or when a broker changes his or her status to that of associate broker, a transfer fee to be established by the commission of not more than fifty dollars shall be paid to the commission.

**Source:** Laws 1973, LB 68, § 20; Laws 1983, LB 182, § 18; Laws 1990, LB 350, § 10; Laws 1991, LB 204, § 4; Laws 2006, LB 819, § 3; Laws 2011, LB23, § 3.  
Effective date August 27, 2011.

**81-885.21 Broker; separate trust account; notify commission where maintained; examination by representative of commission; broker entitled to money; when.**

(1) Each broker other than an inactive broker shall maintain in a bank, savings bank, building and loan association, or savings and loan association a separate, insured checking account in this state in his or her name or the name under which he or she does business which shall be designated a trust account in which all downpayments, earnest money deposits, or other trust funds received by him or her, his or her associate brokers, or his or her salespersons on behalf of his or her principal or any other person shall be deposited and remain until the transaction is closed or otherwise terminated unless all parties having an interest in the funds have agreed otherwise in writing. Until July 1, 2014, such trust account may be either an interest-bearing or a non-interest-

bearing account and, if interest-bearing, shall comply with subsection (7) of this section. On and after July 1, 2014, such trust account shall be a non-interest-bearing account.

(2) Each broker shall notify the commission of the name of the bank, savings bank, building and loan association, or savings and loan association in which the trust account is maintained and also the name of the account on forms provided therefor.

(3) Each broker shall authorize the commission to examine such trust account by a duly authorized representative of the commission. Such examination shall be made annually or at such time as the commission may direct.

(4) A broker may maintain more than one trust account in his or her name or the name under which he or she does business if the commission is advised of such account as required in subsection (2) of this section.

(5) In the event a branch office maintains a separate trust account, a separate bookkeeping system shall be maintained in the branch office.

(6) A broker shall not be entitled to any part of the earnest money or other money paid to him or her or the entity under which he or she does business in connection with any real estate transaction as part or all of his or her compensation or consideration until the transaction has been consummated or terminated.

(7) If the trust account is an interest-bearing account, as authorized under subsection (1) of this section, the interest may only be distributed or otherwise accrue to nonprofit organizations that are exempt from the payment of federal income taxes. The commission may further define policies and procedures for the processing of and distributions from interest-bearing trust accounts by rule and regulation.

**Source:** Laws 1973, LB 68, § 21; Laws 1975, LB 354, § 2; Laws 1978, LB 361, § 8; Laws 1981, LB 238, § 1; Laws 1991, LB 118, § 4; Laws 2000, LB 932, § 52; Laws 2002, LB 863, § 18; Laws 2011, LB347, § 1.

Effective date August 27, 2011.

**81-885.24 Commission; investigative powers; disciplinary powers; civil fine; violations of unfair trade practices.**

The commission may, upon its own motion, and shall, upon the sworn complaint in writing of any person, investigate the actions of any broker, associate broker, salesperson, or subdivider, may censure the licensee or certificate holder, revoke or suspend any license or certificate issued under the Nebraska Real Estate License Act, or enter into consent orders, and, alone or in combination with such disciplinary actions, may impose a civil fine on a licensee pursuant to section 81-885.10, whenever the license or certificate has been obtained by false or fraudulent representation or the licensee or certificate holder has been found guilty of any of the following unfair trade practices:

(1) Refusing because of religion, race, color, national origin, ethnic group, sex, familial status, or disability to show, sell, or rent any real estate for sale or rent to prospective purchasers or renters;

(2) Intentionally using advertising which is misleading or inaccurate in any material particular or in any way misrepresents any property, terms, values, policies, or services of the business conducted;

(3) Failing to account for and remit any money coming into his or her possession belonging to others;

(4) Commingling the money or other property of his or her principals with his or her own;

(5) Failing to maintain and deposit in a separate trust account all money received by a broker acting in such capacity, or as escrow agent or the temporary custodian of the funds of others, in a real estate transaction unless all parties having an interest in the funds have agreed otherwise in writing;

(6) Accepting, giving, or charging any form of undisclosed compensation, consideration, rebate, or direct profit on expenditures made for a principal;

(7) Representing or attempting to represent a real estate broker, other than the employer, without the express knowledge and consent of the employer;

(8) Accepting any form of compensation or consideration by an associate broker or salesperson from anyone other than his or her employing broker without the consent of his or her employing broker;

(9) Acting in the dual capacity of agent and undisclosed principal in any transaction;

(10) Guaranteeing or authorizing any person to guarantee future profits which may result from the resale of real property;

(11) Placing a sign on any property offering it for sale or rent without the written consent of the owner or his or her authorized agent;

(12) Offering real estate for sale or lease without the knowledge and consent of the owner or his or her authorized agent or on terms other than those authorized by the owner or his or her authorized agent;

(13) Inducing any party to a contract of sale or lease to break such contract for the purpose of substituting, in lieu thereof, a new contract with another principal;

(14) Negotiating a sale, exchange, listing, or lease of real estate directly with an owner or lessor if he or she knows that such owner has a written outstanding listing contract in connection with such property granting an exclusive agency or an exclusive right to sell to another broker or negotiating directly with an owner to withdraw from or break such a listing contract for the purpose of substituting, in lieu thereof, a new listing contract;

(15) Discussing or soliciting a discussion of, with an owner of a property which is exclusively listed with another broker, the terms upon which the broker would accept a future listing upon the expiration of the present listing unless the owner initiates the discussion;

(16) Violating any provision of sections 76-2401 to 76-2430;

(17) Soliciting, selling, or offering for sale real estate by offering free lots or conducting lotteries for the purpose of influencing a purchaser or prospective purchaser of real estate;

(18) Providing any form of compensation or consideration to any person for performing the services of a broker, associate broker, or salesperson who has not first secured his or her license under the Nebraska Real Estate License Act unless such person is (a) a nonresident who is licensed in his or her resident regulatory jurisdiction or (b) a citizen and resident of a foreign country which does not license persons conducting the activities of a broker and such person provides reasonable written evidence to the Nebraska broker that he or she is a

resident citizen of that foreign country, is not a resident of this country, and conducts the activities of a broker in that foreign country;

(19) Failing to include a fixed date of expiration in any written listing agreement and failing to leave a copy of the agreement with the principal;

(20) Failing to deliver within a reasonable time a completed and dated copy of any purchase agreement or offer to buy or sell real estate to the purchaser and to the seller;

(21) Failing by a broker to deliver to the seller in every real estate transaction, at the time the transaction is consummated, a complete, detailed closing statement showing all of the receipts and disbursements handled by such broker for the seller, failing to deliver to the buyer a complete statement showing all money received in the transaction from such buyer and how and for what the same was disbursed, and failing to retain true copies of such statements in his or her files;

(22) Making any substantial misrepresentations;

(23) Acting for more than one party in a transaction without the knowledge of all parties for whom he or she acts;

(24) Failing by an associate broker or salesperson to place, as soon after receipt as practicable, in the custody of his or her employing broker any deposit money or other money or funds entrusted to him or her by any person dealing with him or her as the representative of his or her licensed broker;

(25) Filing a listing contract or any document or instrument purporting to create a lien based on a listing contract for the purpose of casting a cloud upon the title to real estate when no valid claim under the listing contract exists;

(26) Violating any rule or regulation adopted and promulgated by the commission in the interest of the public and consistent with the Nebraska Real Estate License Act;

(27) Failing by a subdivider, after the original certificate has been issued, to comply with all of the requirements of the Nebraska Real Estate License Act;

(28) Conviction of a felony or entering a plea of guilty or nolo contendere to a felony charge by a broker or salesperson;

(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section; or

(30) Inducing or attempting to induce a person to transfer an interest in real property, whether or not for monetary gain, or discouraging another person from purchasing real property, by representing that (a) a change has occurred or will or may occur in the composition with respect to religion, race, color, national origin, ethnic group, sex, familial status, or disability of the owners or occupants in the block, neighborhood, or area or (b) such change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area.

**Source:** Laws 1973, LB 68, § 24; Laws 1975, LB 354, § 3; Laws 1978, LB 361, § 10; Laws 1981, LB 238, § 2; Laws 1982, LB 403, § 1; Laws 1983, LB 182, § 20; Laws 1985, LB 109, § 1; Laws 1990,

LB 350, § 11; Laws 2002, LB 863, § 19; Laws 2009, LB30, § 7;  
Laws 2011, LB25, § 17; Laws 2011, LB347, § 2.  
Effective date August 27, 2011.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB25, section 17, with LB347, section 2, to reflect all amendments..

**81-885.49 Continuing education and training; purpose.**

The purpose of sections 81-885.49 to 81-885.54 is to establish requirements for continuing education and training of real estate brokers and salespersons who are licensed in order to maintain and improve the quality of real estate services provided to the public.

**Source:** Laws 1985, LB 101, § 5; Laws 2011, LB24, § 1.  
Effective date August 27, 2011.

**81-885.51 Continuing education and training; evidence of completion.**

In each two-year period, every licensee shall complete twelve hours of approved continuing education activities and six hours of broker-approved training. Evidence of completion of such continuing education and training activities for the two-year period shall be submitted to the commission pursuant to rules and regulations adopted and promulgated by the commission.

**Source:** Laws 1985, LB 101, § 7; Laws 2002, LB 863, § 25; Laws 2011, LB24, § 2.  
Effective date August 27, 2011.

**81-885.52 Continuing education and training; certify activities.**

(1) The commission shall certify as approved continuing education activities those courses, lectures, seminars, or other instructional programs which it determines would protect the public by improving the competency of licensees. The commission may require descriptive information about any continuing education or training activity and refuse approval of any continuing education or training activity which does not advance the purposes of sections 81-885.49 to 81-885.54. The commission shall not approve any provider of continuing education or training courses, lectures, seminars, or other instructional programs unless such provider meets the standards established by the commission.

(2) The commission shall certify the number of hours to be awarded for participation in an approved continuing education activity, based upon contact or classroom hours or other criteria prescribed by rule and regulation of the commission.

(3) The commission may certify the number of hours to be awarded for successful completion of a course delivered in a distance education format, based upon the number of hours which would be awarded in an equivalent classroom course or program or other criteria prescribed by rule and regulation of the commission.

**Source:** Laws 1985, LB 101, § 8; Laws 2002, LB 863, § 26; Laws 2011, LB24, § 3.  
Effective date August 27, 2011.

**81-885.53 Continuing education and training; licensee; requirements.**

Except for inactive licensees, the commission shall not renew a license or issue a new license to any licensee who has failed to comply with the requirements of sections 81-885.49 to 81-885.54. Inactive licensees may renew their licenses at the end of the two-year period without having completed the hours of continuing education and training activities required by section 81-885.51 for each two-year period. Inactive licensees shall not be activated until the licensee has satisfactorily completed the total number of deficient hours of continuing education activities and filed evidence of such completion with the commission, except that no inactive licensee shall be required to make up more than the number of hours of continuing education required by section 81-885.51 for a two-year period.

**Source:** Laws 1985, LB 101, § 9; Laws 2002, LB 863, § 27; Laws 2011, LB24, § 4.  
Effective date August 27, 2011.

(j) STATE ATHLETIC COMMISSIONER

**81-8,128 State Athletic Commissioner; appointment; term; salary; bond or insurance; assistants.**

There is hereby established the position of State Athletic Commissioner. The commissioner shall be appointed by the Governor and shall hold office for a term of two years commencing the first Thursday after the first Tuesday of January in each odd-numbered year. The commissioner shall receive such salary as the Governor may elect and shall be bonded or insured as required by section 11-201. The commissioner may be reappointed for successive terms.

The office of the commissioner shall be located within and under the general supervision of the Charitable Gaming Division of the Department of Revenue. The commissioner may exercise and perform his or her powers and duties at any location in the state. The commissioner may employ assistants and fix their compensation in conjunction with the Charitable Gaming Division. The compensation of assistants and expenses of the office of the commissioner shall be paid through the State Athletic Commissioner's Cash Fund.

**Source:** Laws 1957, c. 382, § 1, p. 1326; Laws 1978, LB 653, § 33; Laws 1993, LB 397, § 2; Laws 2004, LB 884, § 41; Laws 2006, LB 941, § 1; Laws 2010, LB879, § 21; Laws 2011, LB210, § 11.  
Operative date August 27, 2011.

(p) TORT CLAIMS, STATE CLAIMS BOARD,  
AND RISK MANAGEMENT PROGRAM

**81-8,219 State Tort Claims Act; claims exempt.**

The State Tort Claims Act shall not apply to:

(1) Any claim based upon an act or omission of an employee of the state, exercising due care, in the execution of a statute, rule, or regulation, whether or not such statute, rule, or regulation is valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a state agency or an employee of the state, whether or not the discretion is abused;

(2) Any claim arising with respect to the assessment or collection of any tax or fee, or the detention of any goods or merchandise by any law enforcement officer;



(3) Any claim for damages caused by the imposition or establishment of a quarantine by the state whether such quarantine relates to persons or property;

(4) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights;

(5) Any claim by an employee of the state which is covered by the Nebraska Workers' Compensation Act;

(6) Any claim based on activities of the Nebraska National Guard when such claim is cognizable under the Federal Tort Claims Act, 28 U.S.C. 2674, or the National Guard Tort Claims Act of the United States, 32 U.S.C. 715, or when such claim accrues as a result of active federal service or state service at the call of the Governor for quelling riots and civil disturbances;

(7) Any claim based upon the failure to make an inspection or making an inadequate or negligent inspection of any property other than property owned by or leased to the state to determine whether the property complies with or violates any statute, ordinance, rule, or regulation or contains a hazard to public health or safety unless the state had reasonable notice of such hazard or the failure to inspect or inadequate or negligent inspection constitutes a reckless disregard for public health or safety;

(8) Any claim based upon the issuance, denial, suspension, or revocation of or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, or order. Such claim shall also not be filed against a state employee acting within the scope of his or her office. Nothing in this subdivision shall be construed to limit the state's liability for any claim based upon the negligent execution by a state employee in the issuance of a certificate of title under the Motor Vehicle Certificate of Title Act and the State Boat Act;

(9) Any claim arising out of the malfunction, destruction, or unauthorized removal of any traffic or road sign, signal, or warning device unless it is not corrected by the governmental entity responsible within a reasonable time after actual or constructive notice of such malfunction, destruction, or removal. Nothing in this subdivision shall give rise to liability arising from an act or omission of any governmental entity in placing or removing any traffic or road signs, signals, or warning devices when such placement or removal is the result of a discretionary act of the governmental entity;

(10) Any claim arising out of snow or ice conditions or other temporary conditions caused by nature on any highway as defined in section 60-624, bridge, public thoroughfare, or other state-owned public place due to weather conditions. Nothing in this subdivision shall be construed to limit the state's liability for any claim arising out of the operation of a motor vehicle by an employee of the state while acting within the course and scope of his or her employment by the state;

(11) Any claim arising out of the plan or design for the construction of or an improvement to any highway as defined in such section or bridge, either in original construction or any improvement thereto, if the plan or design is approved in advance of the construction or improvement by the governing body of the governmental entity or some other body or employee exercising discretionary authority to give such approval;

(12) Any claim arising out of the alleged insufficiency or want of repair of any highway as defined in such section, bridge, or other public thoroughfare.

Insufficiency or want of repair shall be construed to refer to the general or overall condition and shall not refer to a spot or localized defect. The state shall be deemed to waive its immunity for a claim due to a spot or localized defect only if the state has had actual or constructive notice of the defect within a reasonable time to allow repair prior to the incident giving rise to the claim;

(13)(a) Any claim relating to recreational activities on property leased, owned, or controlled by the state for which no fee is charged (i) resulting from the inherent risk of the recreational activity, (ii) arising out of a spot or localized defect of the premises unless the spot or localized defect is not corrected within a reasonable time after actual or constructive notice of the spot or localized defect, or (iii) arising out of the design of a skatepark or bicycle motocross park constructed for purposes of skateboarding, inline skating, bicycling, or scootering that was constructed or reconstructed, reasonably and in good faith, in accordance with generally recognized engineering or safety standards or design theories in existence at the time of the construction or reconstruction. For purposes of this subdivision, the state shall be charged with constructive notice only when the failure to discover the spot or localized defect of the premises is the result of gross negligence.

(b) For purposes of this subdivision:

(i) Recreational activities include, but are not limited to, whether as a participant or spectator: Hunting, fishing, swimming, boating, camping, picnicking, hiking, walking, running, horseback riding, use of trails, nature study, waterskiing, winter sports, use of playground equipment, biking, roller blading, skateboarding, golfing, athletic contests; visiting, viewing, or enjoying entertainment events, festivals, or historical, archaeological, scenic, or scientific sites; and similar leisure activities;

(ii) Inherent risk of recreational activities means those risks that are characteristic of, intrinsic to, or an integral part of the activity;

(iii) Gross negligence means the absence of even slight care in the performance of a duty involving an unreasonable risk of harm; and

(iv) Fee means a fee to participate in or be a spectator at a recreational activity. A fee shall include payment by the claimant to any person or organization other than the state only to the extent the state retains control over the premises or the activity. A fee shall not include payment of a fee or charge for parking or vehicle entry.

(c) This subdivision, and not subdivision (7) of this section, shall apply to any claim arising from the inspection or failure to make an inspection or negligent inspection of premises owned or leased by the state and used for recreational activities; or

(14) Any claim arising as a result of a special event during a period of time specified in a notice provided by a political subdivision pursuant to subsection (3) of section 39-1359.

**Source:** Laws 1969, c. 756, § 11, p. 2848; Laws 1971, LB 28, § 5; Laws 1986, LB 811, § 142; Laws 1988, LB 864, § 30; Laws 1992, LB 262, § 11; Laws 1993, LB 370, § 482; Laws 1993, LB 170, § 9; Laws 1999, LB 228, § 2; Laws 2004, LB 560, § 44; Laws 2005, LB 276, § 111; Laws 2007, LB564, § 4; Laws 2011, LB589, § 5. Effective date May 25, 2011.

## Cross References

Motor Vehicle Certificate of Title Act, see section 60-101.

Nebraska Workers' Compensation Act, see section 48-1,110.

State Boat Act, see section 37-1201.

**81-8,239.01 Risk Management Program; risk management and state claims division of the Department of Administrative Services; established; Risk Manager; powers and duties.**

(1) For purposes of sections 81-8,239.01 to 81-8,239.08 and 81-8,239.11, unless the context otherwise requires, the definition of state agencies found in section 81-8,210 shall apply, except that such term shall not include the Board of Regents of the University of Nebraska.

(2) There is hereby established a division within the Department of Administrative Services to be known as the risk management and state claims division. The division shall be headed by the Risk Manager who shall be appointed by the Director of Administrative Services. The division shall be responsible for the Risk Management Program, which program is hereby created. The program shall consist of the systematic identification of exposures to risk of loss as provided in sections 11-201 to 11-203, 13-911, 25-2165, 43-1320, 44-1615, 44-1616, 48-194, 48-197, 48-1,103, 48-1,104, 48-1,107, 48-1,109, 81-8,212, 81-8,220, 81-8,225, 81-8,226, 81-8,233, 81-8,239.01 to 81-8,239.08, 81-8,239.11, 81-8,300, and 81-1801.02 and shall include the appropriate methods for dealing with such exposures in relation to the state budget pursuant to such sections. Such program shall be administered by the Risk Manager and shall include the operations of the State Claims Board and other operations provided in such sections.

(3) Under the Risk Management Program, the Risk Manager shall have the authority and responsibility to:

(a) Employ any personnel necessary to administer the Risk Management Program;

(b) Develop and maintain loss and exposure data on all state property and liability risks;

(c) Develop and recommend risk reduction or elimination programs for the state and its agencies and establish, implement, and monitor a statewide safety program;

(d) Determine which risk exposures shall be insured and which risk exposures shall be self-insured or assumed by the state;

(e) Establish standards for the purchase of necessary insurance coverage or risk management services at the lowest costs, consistent with good underwriting practices and sound risk management techniques;

(f) Be the exclusive negotiating and contracting agency to purchase insurance or risk management services and, after consultation with the state agency for which the insurance or services are purchased, enter into such contracts on behalf of the state and its agencies, officials, and employees to the extent deemed necessary and in the best interest of the state, and authorize payment for such purchase out of the appropriate funds created by section 81-8,239.02;

(g) Determine whether the state suffered a loss for which self-insured property loss funds have been created and authorize and administer payments for such loss from the State Self-Insured Property Fund for the purpose of replacing or rebuilding state property;

(h) Perform all duties assigned to the Risk Manager under the Nebraska Workers' Compensation Act and sections 11-201 to 11-203, 81-8,239.05, 81-8,239.07, 81-8,239.11, and 84-1601 to 84-1615;

(i) Approve the use of risk management pools by any department, agency, board, bureau, commission, or council of the State of Nebraska; and

(j) Recommend to the Legislature such legislation as may be necessary to carry out the purposes of the Risk Management Program and make appropriation requests for the administration of the program and the funding of the separate funds administered by the Risk Manager.

(4) No official or employee of any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act shall be considered a state official or employee for purposes of sections 81-8,239.01 to 81-8,239.06.

**Source:** Laws 1981, LB 273, § 23; Laws 1986, LB 811, § 143; Laws 1986, LB 1208, § 1; Laws 1987, LB 398, § 49; Laws 1989, LB 326, § 2; Laws 1989, LB 77, § 1; Laws 1989, LB 303, § 7; Laws 1991, LB 81, § 7; Laws 1992, LB 169, § 3; Laws 1992, LB 560, § 2; Laws 1992, Third Spec. Sess., LB 14, § 7; Laws 1996, LB 1248, § 2; Laws 1996, LB 1252, § 1; Laws 1999, LB 87, § 93; Laws 2001, LB 3, § 1; Laws 2007, LB256, § 6; Laws 2011, LB390, § 15. Operative date May 27, 2011.

#### Cross References

**Interlocal Cooperation Act**, see section 13-801.

**Joint Public Agency Act**, see section 13-2501.

**Nebraska Workers' Compensation Act**, see section 48-1,110.

#### **81-8,239.02 State Insurance Fund; State Self-Insured Property Fund; State Self-Insured Indemnification Fund; State Self-Insured Liability Fund; created; purposes.**

The following separate permanent revolving funds are established in the state treasury for use under the Risk Management Program according to the purposes for which each fund is established:

(1) The State Insurance Fund is hereby created for the purpose of purchasing insurance to cover property, fidelity, and liability risks of the state and workers' compensation claims against the state and other risks to which the state or its agencies, officials, or employees are exposed and for paying related expenses, including the costs of administering the Risk Management Program. The fund may receive deposits from assessments against state agencies to provide insurance coverage as directed by the Risk Manager. The Risk Manager may retain in the fund sufficient money to pay for any deductibles, self-insured retentions, or copayments as may be required by such insurance policies and Risk Management Program expenses;

(2) The State Self-Insured Property Fund is hereby created for the purpose of replacing, repairing, or rebuilding state property which has incurred damage or is suffering other loss not fully covered by insurance and for paying related expenses. The fund may receive deposits from assessments against state agencies to provide property coverage as directed by the Risk Manager. The Risk Manager may assess state agencies to provide self-insured property coverage;

(3) The State Self-Insured Indemnification Fund is hereby created for the purpose of paying indemnification claims under section 81-8,239.05. Indemnification claims shall include payments for awards, settlements, and associated

costs, including appeal bonds and reasonable costs associated with a required appearance before any tribunal. The fund may receive deposits from assessments against state agencies to pay for the costs associated with providing and supporting indemnification claims. The creation of this fund shall not be interpreted as expanding the liability exposure of the state or its agencies, officials, or employees; and

(4) The State Self-Insured Liability Fund is hereby created for the purpose of paying compensable liability and fidelity claims against the state or its agencies, officials, or employees which are not fully covered by insurance and for which there is insufficient agency funding and for which a legislative appropriation is made under the provisions of section 81-8,239.11. The creation of this fund shall not be interpreted as expanding the liability exposure of the state or its agencies, officials, or employees. The Risk Manager shall report all claims and judgments paid from the State Self-Insured Liability Fund to the Clerk of the Legislature annually. The report shall include the name of the claimant, the amount claimed and paid, and a brief description of the claim, including any agency, program, and activity under which the claim arose. Any member of the Legislature may receive a copy of the report by making a request to the Risk Manager.

**Source:** Laws 1981, LB 273, § 24; Laws 1986, LB 811, § 144; Laws 1986, LB 1208, § 2; Laws 1989, LB 77, § 2; Laws 1994, LB 1211, § 4; Laws 1996, LB 1248, § 3; Laws 2001, LB 3, § 2; Laws 2005, LB 485, § 4; Laws 2007, LB256, § 8; Laws 2011, LB378, § 25. Effective date May 18, 2011.

## ARTICLE 11

### DEPARTMENT OF ADMINISTRATIVE SERVICES

#### (a) GENERAL PROVISIONS

##### Section

- 81-1108.33. State building division; Task Force for Building Renewal; reviews required; report; approval; when required.
- 81-1118.02. All officers, departments, and agencies; state property; inventory; how stamped; action to recover.
- 81-1120.02. Terms, defined.
- 81-1120.22. Director of Communications; develop system of billings and charges; payment; deposit.
- 81-1120.23. Communications Cash Fund; established; purpose; investment.
- 81-1120.29. Communications Revolving Fund; established; use; investment.

#### (a) GENERAL PROVISIONS

**81-1108.33 State building division; Task Force for Building Renewal; reviews required; report; approval; when required.**

(1) It is the intent of the Legislature that the state will not assume responsibility for the substandard construction, repair, or maintenance of, or for the excessive maintenance or repair costs for, real property, structures, or improvements which will be made available by gift, bequest, or devise to or acquired with the proceeds of donations, gifts, bequests, devises, or grants from an individual, an organization, a corporation, a foundation, or a similar entity or from a nonfederal governmental agency by any state agency, board, or commission. Therefor, prior to any construction, repair, or maintenance work on such real property, structure, or improvement, the state building division and the

Task Force for Building Renewal shall review the plans, specifications, other construction or repair documents, and potential maintenance requirements as a requirement for acceptance or acquisition by the state of such real property, structure, or improvement.

(2)(a) Any gift of, bequest of, or devise of real property, a structure, or an improvement proposed to be made available to any state agency, board, or commission and any acquisition of real property, a structure, or an improvement with the proceeds of a donation, gift, bequest, devise, or grant from an individual, an organization, a corporation, a foundation, or a similar entity or from a nonfederal governmental agency shall be reviewed by the state building division and the Task Force for Building Renewal pursuant to sections 81-176, 81-1108.15, and 81-1114. Such review shall include any potential matching of state funds, any plans, specifications, and other construction or repair documents reviewed pursuant to subsection (1) of this section, and any potential maintenance requirements as a condition of acceptance or acquisition. Subsequent to such review, the state building division and the task force shall submit a report to the Governor, the Committee on Building Maintenance, and the Legislative Fiscal Analyst including a summary of the review of the plans, specifications, and other construction or repair documents and potential maintenance requirements and outlining the terms and conditions of the proposed gift, bequest, devise, or acquisition along with its recommendation.

(b) Any proposed gift of, bequest of, or devise of real property, a structure, or an improvement in excess of ten thousand dollars shall be approved by the Governor and the Legislature prior to acceptance and any acquisition of real property, a structure, or an improvement with the proceeds of a donation, gift, bequest, devise, or grant from an individual, an organization, a corporation, a foundation, or a similar entity or from a nonfederal governmental agency shall be approved by the Governor and Legislature prior to such acquisition. If the Legislature is not in session, the Executive Board of the Legislative Council, after recommendation by the Committee on Building Maintenance, may approve such gift, bequest, devise, or acquisition along with the Governor.

(c) No construction or other work related to the proposed gift, bequest, devise, or acquisition shall be initiated prior to receiving the approval required by this section.

(3) For purposes of this section, gift of, bequest of, or devise of (a) real property, (b) a structure, or (c) an improvement shall include, but not be limited to, a donation of, gift of, bequest of, devise of, or grant of (i) real property, (ii) a structure, or (iii) an improvement from an individual, an organization, a corporation, a foundation, or a similar entity or from a nonfederal governmental agency. For purposes of this section, gift, bequest, or devise shall not include a donation, gift, bequest, devise, or grant of tangible or intangible personal property.

(4) This section shall not apply to the University of Nebraska or any Nebraska state college, since these agencies are subject to and participate in statewide facilities planning developed by the Coordinating Commission for Postsecondary Education pursuant to the Coordinating Commission for Postsecondary Education Act.

**Source:** Laws 1995, LB 530, § 13; Laws 1999, LB 369, § 3; Laws 2006, LB 1038, § 2; Laws 2008, LB1116, § 8; Laws 2011, LB264, § 4.  
Effective date March 11, 2011.

## Cross References

Committee on Building Maintenance, see section 81-185.

Coordinating Commission for Postsecondary Education, see Article VII, section 14, Constitution of Nebraska and section 85-1403.  
Coordinating Commission for Postsecondary Education Act, see section 85-1401.

**81-1118.02 All officers, departments, and agencies; state property; inventory; how stamped; action to recover.**

(1) Each executive, department, commission, or other state agency, including the Supreme Court, the Board of Regents of the University of Nebraska, and the Board of Trustees of the Nebraska State Colleges, 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.

**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.  
Effective date February 23, 2011.

**81-1120.02 Terms, defined.**

As used in sections 81-1120.01 to 81-1120.29, unless the context otherwise requires:

- (1) Director means the Director of Communications;
- (2) Division means the division of communications of the office of Chief Information Officer;
- (3) Communications system means the total communications facilities and equipment owned, leased, or used by all departments, agencies, and subdivisions of state government; and

(4) Communications means any transmission, emission, or reception of signs, signals, writing, images, and sounds or intelligence of any nature by wire, radio, optical, or other electromagnetic systems.

**Source:** Laws 1967, c. 572, § 2, p. 1880; Laws 1971, LB 675, § 3; Laws 1975, LB 427, § 4; Laws 1984, LB 1125, § 5; Laws 1986, LB 965, § 22; Laws 2000, LB 893, § 2; Laws 2006, LB 921, § 6; Laws 2011, LB378, § 26.

Effective date May 18, 2011.

**81-1120.22 Director of Communications; develop system of billings and charges; payment; deposit.**

The Director of Communications shall develop a system of equitable billings and charges for communications services provided in any consolidated or joint-use system of communications. Such system of charges shall reflect, as nearly as may be practical, the actual share of costs incurred on behalf of or for services to each department, agency, or political subdivision provided communications services. Using agencies shall pay for such services out of appropriated or available funds. Prior to July 1, 2011, all payments shall be credited to the Communications Cash Fund. Beginning July 1, 2011, all payments shall be credited to the Communications Revolving Fund. Prior to July 1, 2011, all collections for payment of telephone expenses shall be credited to the Telephone Expense Revolving Fund which is hereby created. Beginning July 1, 2011, all collections for payment of telephone expenses shall be credited to the Communications Revolving Fund. On July 1, 2011, or as soon thereafter as is administratively possible, the State Treasurer shall transfer any money in the Telephone Expense Revolving Fund to the Communications Revolving Fund. On July 31, 2011, the Telephone Expense Revolving Fund shall terminate.

**Source:** Laws 1967, c. 572, § 8, p. 1883; Laws 1969, c. 584, § 109, p. 2416; Laws 1973, LB 431, § 1; Laws 1974, LB 1048, § 42; R.R.S.1943, § 81-1120.08; Laws 1975, LB 427, § 13; Laws 1995, LB 7, § 120; Laws 2011, LB378, § 27.

Effective date May 18, 2011.

**81-1120.23 Communications Cash Fund; established; purpose; investment.**

There is hereby established a cash fund to be known as the Communications Cash Fund. Appropriations made to the division of communications of the office of Chief Information Officer for the purposes of sections 81-1120.01 to 81-1120.28 shall be credited to the fund. All funds received under such sections and all funds received for communications services provided to any agency, department, or other user shall be credited to the fund. The division shall, under policies and procedures established by the director, expend funds from time to time credited to the fund for the communications purposes enumerated in such sections. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Communications 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. On July 1, 2011, or as soon thereafter as is administratively possible, the State Treasurer shall transfer any money in the Communications



Cash Fund to the Communications Revolving Fund. On July 31, 2011, the Communications Cash Fund shall terminate.

**Source:** Laws 1967, c. 572, § 9, p. 1883; Laws 1971, LB 675, § 6; Laws 1973, LB 431, § 2; R.R.S.1943, § 81-1120.09; Laws 1975, LB 427, § 14; Laws 1984, LB 1125, § 7; Laws 1986, LB 965, § 24; Laws 1992, LB 858, § 3; Laws 1994, LB 1066, § 103; Laws 2006, LB 921, § 9; Laws 2009, First Spec. Sess., LB3, § 71; Laws 2011, LB378, § 28.

Effective date May 18, 2011.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

**81-1120.29 Communications Revolving Fund; established; use; investment.**

There is hereby established a revolving fund to be known as the Communications Revolving Fund. Beginning July 1, 2011, appropriations made to the division of communications of the office of Chief Information Officer for the purposes of sections 81-1120.01 to 81-1120.28 shall be credited to the fund. Beginning July 1, 2011, all funds received under such sections and all funds received for communications services provided to any agency, department, political subdivision, or other user shall be credited to the fund. The division shall, under policies and procedures established by the director, expend funds from time to time credited to the fund for the communications purposes enumerated in such sections. Any money in the Communications Revolving 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 2011, LB378, § 29.

Effective date May 18, 2011.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

**ARTICLE 12**

**DEPARTMENT OF ECONOMIC DEVELOPMENT**

(a) GENERAL PROVISIONS

Section

- 81-1201.11. Department; lead agency; clearinghouse; staff services; coordination; status report; duties.
- 81-1201.13. Travel and Tourism Division; duties; Travel and Tourism Division Advisory Committee; members; duties; consultant; awarding of contracts.
- 81-1201.21. Job Training Cash Fund; created; use; investment.
- 81-1205. Job training grant or training grant; reports required; department; duties.
- 81-1210.01. Interns; job training grants; terms, defined.
- 81-1210.02. Interns; job training grants; internships; application; certification; grants; limitation; department; duties.
- 81-1210.03. Interns; job training grants; rules and regulations.
- 81-1211. Repealed. Laws 2011, LB 453, § 1.
- 81-1213. Industrial Recovery Fund; created; administration; investment; use.

**STATE ADMINISTRATIVE DEPARTMENTS**

Section

**(d) PROPERTY CONTROLLED BY DEPARTMENT**

- 81-1222.01. Repealed. Laws 2011, LB 454, § 1.
- 81-1222.03. Repealed. Laws 2011, LB 454, § 1.

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- 81-1255. County Visitors Promotion Fund; County Visitors Improvement Fund; visitors committee; establishment; purpose.
- 81-1260. Lodging sales tax; collection; enforcement.

**(g) VENTURE CAPITAL NETWORK ACT**

- 81-1265. Repealed. Laws 2011, LB 455, § 1.
- 81-1266. Repealed. Laws 2011, LB 455, § 1.
- 81-1267. Repealed. Laws 2011, LB 455, § 1.
- 81-1268. Repealed. Laws 2011, LB 455, § 1.
- 81-1269. Repealed. Laws 2011, LB 455, § 1.
- 81-1270. Repealed. Laws 2011, LB 455, § 1.
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- 81-1273. Legislative findings.
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**(m) MICROENTERPRISE DEVELOPMENT ACT**

- 81-1295. Repealed. Laws 2011, LB 387, § 18.
- 81-1296. Repealed. Laws 2011, LB 387, § 18.
- 81-1297. Repealed. Laws 2011, LB 387, § 18.
- 81-1298. Repealed. Laws 2011, LB 387, § 18.
- 81-1299. Repealed. Laws 2011, LB 387, § 18.
- 81-12,100. Repealed. Laws 2011, LB 387, § 18.
- 81-12,101. Repealed. Laws 2011, LB 387, § 18.
- 81-12,102. Repealed. Laws 2011, LB 387, § 18.
- 81-12,103. Repealed. Laws 2011, LB 387, § 18.
- 81-12,104. Repealed. Laws 2011, LB 387, § 18.
- 81-12,105. Repealed. Laws 2011, LB 387, § 18.
- 81-12,105.01. Repealed. Laws 2011, LB 387, § 18.

**(p) BUILDING ENTREPRENEURIAL COMMUNITIES ACT**

- 81-12,125. Repealed. Laws 2011, LB 387, § 18.
- 81-12,126. Repealed. Laws 2011, LB 387, § 18.
- 81-12,127. Repealed. Laws 2011, LB 387, § 18.
- 81-12,128. Repealed. Laws 2011, LB 387, § 18.

**(q) NEBRASKA OPERATIONAL ASSISTANCE ACT**

- 81-12,135. Information regarding activities; department; report.

**(r) SMALL BUSINESS INNOVATION ACT**

- 81-12,136. Act, how cited.
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## Section

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- 81-12,162. Small business investment program; established; award; criteria; considerations; funds; match required; department; contracts authorized; limitation.
- 81-12,163. Appropriations; legislative intent.
- 81-12,164. Rules and regulations.
- 81-12,165. Department; contract authorized.
- 81-12,166. Report; contents.
- 81-12,167. Act; termination.

## (a) GENERAL PROVISIONS

**81-1201.11 Department; lead agency; clearinghouse; staff services; coordination; status report; duties.**

The department shall:

(1) Serve as the lead state agency in the area of economic development. The department shall develop a program to promote coordination and cooperation within state government and with institutions of higher education, local governments, other political subdivisions of the state, and the private sector;

(2) Serve as a clearinghouse for information, data, and other materials which may be helpful or necessary to the full development of the state's economy, which may be relevant with regard to the possibilities of future development in Nebraska, and which will be of use to local governments, the Governor, other state agencies, and the Legislature in discharging their responsibilities. The department shall develop a program to ensure cooperation between state agencies, the University of Nebraska, and other entities with related economic information;

(3) Provide staff services when, in the opinion of the director, such services are necessary and appropriate in the areas of economic development to cities of the first class, second class, and villages on a contractual basis when the terms of such contracts can be mutually accepted;

(4) Assist the Governor in coordinating the efforts of local governments to develop mutual and cooperative solutions to their common problems; and

(5) Prepare annually a status report on the activities and impacts of the department and its programs. The status report shall include information

detailing the status of all programs administered by the department for which the Legislature requires reporting. The status report shall be submitted to the Governor and the Legislature on the first working day of July of each year.

**Source:** Laws 1986, LB 965, § 11; Laws 2011, LB404, § 4.  
Operative date January 1, 2012.

**81-1201.13 Travel and Tourism Division; duties; Travel and Tourism Division Advisory Committee; members; duties; consultant; awarding of contracts.**

(1) The Travel and Tourism Division shall develop a program to provide promotional services and technical assistance to local governments and industry members and to ensure the protection and development of Nebraska's attraction resources.

(2)(a) The department shall have an advisory committee to provide regular consultation to the Travel and Tourism Division, which committee shall be named the Travel and Tourism Division Advisory Committee. Such advisory committee shall include, at a minimum, one representative from the Game and Parks Commission, one representative from the Nebraska Travel Association, one representative from the Nebraska Hotel and Motel Association, one representative from a tourism attraction that records at least two thousand out-of-state visitors per year, and one representative from the Nebraska Association of Convention and Visitors Bureaus.

(b) The Travel and Tourism Division Advisory Committee shall develop a statewide strategic plan to cultivate and promote tourism in Nebraska. The advisory committee shall adopt policy criteria to be used in the development of the plan. The plan shall include:

(i) A review of the existing and potential sources of funding for tourism at the state and local levels;

(ii) A comprehensive inventory of local tourism boards, the structure of such boards, and their funding;

(iii) Criteria for local tourism boards in terms of appointments to such boards and for awarding grants by such boards at the local level to ensure local resources are used to achieve the greatest return;

(iv) An examination of other states' funding models for tourism;

(v) Marketing strategies for promoting tourism;

(vi) A proposal for creating new or expanding existing tourism capacity, which may include encouraging regional cooperation, collaboration, or privatization; and

(vii) Recommended legislation or funding requirements.

(c) The department may hire a consultant to assist the Travel and Tourism Division Advisory Committee in developing the statewide strategic plan. The department may accept, in trust, any gifts, devises, and bequests to be held and administered by the department for the purposes of hiring a consultant. The advisory committee shall prepare and present the statewide strategic plan to the Legislature by September 1, 2012.

(3) All advertising contracts awarded by the department concerning travel and tourism shall be based on competitive bids. Contracts shall be awarded to the lowest responsible bidder, taking into consideration the best interests of the state, the quality of performance of the services rendered, the conformity with

specifications, the purposes for which required, and the time of completion, and with the consultation of the Travel and Tourism Division Advisory Committee. In determining the lowest responsible bidder, in addition to price, the following elements shall be given consideration: (a) The ability, capacity, creativity, and skill of the bidder to perform the contract required; (b) the character, integrity, reputation, judgment, experience, and efficiency of the bidder; (c) whether the bidder can perform the contract within the time specified; (d) the quality of performance of previous contracts; (e) the previous and existing compliance by the bidder with laws relating to the contract; and (f) such other information as may be secured having a bearing on the decision to award the contract. The department shall advertise for bids for the awarding of contracts concerning travel and tourism pursuant to sections 73-101 to 73-105. At least thirty working days shall elapse between the time formal bids are advertised for and the time of their opening. Contracts shall be awarded within sixty working days after the bidding has been closed. Each person submitting a bid shall, by certified mail, be notified as to whom the contract was awarded.

**Source:** Laws 1986, LB 965, § 13; Laws 2011, LB684, § 1.  
Effective date August 27, 2011.

**81-1201.21 Job Training Cash Fund; created; use; investment.**

(1) There is hereby created the Job Training Cash Fund. The fund shall be under the direction of the Department of Economic Development. Money may be transferred to the fund pursuant to subdivision (1)(b)(iv) of section 48-621 and from the Cash Reserve Fund at the direction of the Legislature. The department shall establish a subaccount for all money transferred from the Cash Reserve Fund to the Job Training Cash Fund on or after July 1, 2005.

(2) The department shall use the Job Training Cash Fund or the subaccount established in subsection (1) of this section (a) to provide reimbursements for job training activities, including employee assessment, preemployment training, on-the-job training, training equipment costs, and other reasonable costs related to helping industry and business locate or expand in Nebraska, (b) to provide upgrade skills training of the existing labor force necessary to adapt to new technology or the introduction of new product lines, or (c) to provide job training grants pursuant to section 81-1210.02.

(3) The department shall establish a subaccount within the fund to provide training grants for training employees and potential employees of businesses that (a) employ twenty-five or fewer employees on the application date, (b) employ, or train for potential employment, residents of rural areas of Nebraska, or (c) are located in or employ, or train for potential employment, residents of high-poverty areas as defined in section 81-1203. The department shall calculate the amount of prior year investment income earnings accruing to the fund and allocate such amount to the subaccount for training grants under this subsection. The subaccount shall also be used as provided in the Teleworker Job Creation Act.

(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 1989, LB 305, § 3; Laws 1994, LB 1066, § 107; Laws 1995, LB 1, § 15; Laws 2000, LB 953, § 11; Laws 2005, LB 427, § 1; Laws 2007, LB322, § 27; Laws 2008, LB956, § 1; Laws 2009,

LB316, § 22; Laws 2009, First Spec. Sess., LB3, § 72; Laws 2010, LB961, § 1; Laws 2010, LB1081, § 12; Laws 2011, LB386, § 4. Operative date June 1, 2011.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

Teleworker Job Creation Act, see section 48-3001.

**81-1205 Job training grant or training grant; reports required; department; duties.**

A business which is awarded a job training grant or a training grant shall provide annual performance reports to the Department of Economic Development and a final performance report upon the completion of the project. The department shall include information relating to such grants in the department's annual status report under section 81-1201.11. The status report shall include information on each active grant, including specific information regarding the number of positions to be trained, whether new or existing employees are to be trained, the length of time that the project has been active, the amount of funding committed to the project, the amount of funding paid out to date, and the projected completion date. The status report shall also provide information on grants closed during the reporting year, including the total number of employees trained, whether new or existing employees were trained, total project expenditures, and the duration time of the project. The status report shall also provide information summarizing the use of community college areas to provide training services and list specific projects where a community college area is providing all or a component of the training services. If private or inhouse training services are used, the status report shall provide information regarding the name of the private or inhouse training service and the qualifications of the training service.

**Source:** Laws 1995, LB 326, § 4; Laws 2008, LB956, § 4; Laws 2010, LB961, § 3; Laws 2011, LB404, § 5.  
Operative date January 1, 2012.

**81-1210.01 Interns; job training grants; terms, defined.**

For purposes of sections 81-1210.01 to 81-1210.03:

- (1) Department means the Department of Economic Development;
- (2) Distressed area means a municipality, county with a population of fewer than one hundred thousand inhabitants according to the most recent federal decennial census, unincorporated area within a county, or census tract in Nebraska that (a) has an unemployment rate which exceeds the statewide average unemployment rate, (b) has a per capita income below the statewide average per capita income, or (c) had a population decrease between the two most recent federal decennial censuses;
- (3) Eligible company has the same meaning as qualified business in subsection (1) of section 77-5715;
- (4) Intern means any person who is working in a professional environment for a limited period of time to gain sufficient practical work experience in a professional or technical position to allow for career decisionmaking and to provide the employer valuable skills to accelerate short-term business objectives and who (a) is enrolled full time in a four-year college or university in Nebraska

and has achieved junior or senior status by such institution's criteria, (b) is enrolled full time in a two-year college in Nebraska and has successfully completed a minimum of one-half of the total credit hours required for an associate degree, or (c) having residency in Nebraska, is enrolled full time in a four-year college or university in a state other than Nebraska and has achieved junior or senior status by such institution's criteria; and

(5) Internship means any internship that did not exist before June 1, 2011.

**Source:** Laws 2011, LB386, § 1.

Operative date June 1, 2011.

**81-1210.02 Interns; job training grants; internships; application; certification; grants; limitation; department; duties.**

(1) The intent of sections 81-1210.01 to 81-1210.03 is to connect Nebraska students pursuing postsecondary degrees with targeted industries in order to retain such students and attract workers to Nebraska by assisting companies willing to provide paid internships.

(2) An eligible company may apply to the department for a job training grant to assist in the hiring of an intern if:

(a) The company certifies that the internship meets the definition of internship in section 81-1210.01;

(b) The internship pays at least the federal minimum wage;

(c) The intern will work a minimum of two hundred hours in a twelve-week period but no more than one thousand hours in a fifty-week period; and

(d) The intern applies for the internship prior to graduation, even though the internship may be completed after graduation.

(3) The department may provide a job training grant of up to the lesser of forty percent of the cost of the internship or three thousand five hundred dollars, except that if the internship is in a distressed area, the job training grant may be up to the lesser of sixty percent of the cost of the internship or five thousand dollars.

(4) An eligible company may apply for no more than two job training grants for the same intern, shall not be awarded more than five job training grants at any one location in any twelve-month period, and shall not be awarded more than ten job training grants total in any twelve-month period.

(5) An eligible company may allow an intern to telecommute if the eligible company is located more than thirty miles from the college or university in which the intern is enrolled and if the college or university is in Nebraska.

(6) The department shall, to the extent possible, assure that the distribution of job training grants under sections 81-1210.01 to 81-1210.03 provides equitable access to the grants by all geographic areas of the state.

(7) The department shall not allocate more than one million five hundred thousand dollars in each of FY2011-12 and FY2012-13 from the Job Training Cash Fund for purposes of this section. The department may receive funds from public, private, or other sources for purposes of this section.

**Source:** Laws 2011, LB386, § 2.

Operative date June 1, 2011.

**81-1210.03 Interns; job training grants; rules and regulations.**

The department may adopt and promulgate rules and regulations to govern the award and disbursement of job training grants under section 81-1210.02.

**Source:** Laws 2011, LB386, § 3.

Operative date June 1, 2011.

**81-1211 Repealed. Laws 2011, LB 453, § 1.**

**81-1213 Industrial Recovery Fund; created; administration; investment; use.**

(1) The Industrial Recovery Fund is created. The fund shall be administered by the Department of Economic Development. 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 department may provide assistance from the fund to a political subdivision impacted by a sudden and significant private-sector entity closure or downsizing that will have a significant impact on the community. The assistance shall be used to mitigate the economic impact of the closure or downsizing by making necessary improvements to the buildings and infrastructure, or both, related to the assets of the private-sector entity.

(3) The fund shall consist of funds remitted for deposit in the fund pursuant to section 58-708. If the fund balance exceeds one million dollars, deposits to the fund pursuant to such section shall cease until the fund balance is less than one million dollars.

**Source:** Laws 2011, LB388, § 9.

Operative date October 1, 2011.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

(d) PROPERTY CONTROLLED BY DEPARTMENT

**81-1222.01 Repealed. Laws 2011, LB 454, § 1.**

**81-1222.03 Repealed. Laws 2011, LB 454, § 1.**

(f) NEBRASKA VISITORS DEVELOPMENT ACT

**81-1255 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 committee 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. 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 use the County Visitors Improvement Fund 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.  
Effective date August 27, 2011.

#### **81-1260 Lodging sales tax; collection; enforcement.**

Unless otherwise specifically provided, any sales tax on transient lodging imposed under the Nebraska Visitors Development Act is in addition to that sales tax imposed under the provisions of Chapter 77, article 27, and shall be interpreted, collected, remitted, and enforced by the Tax Commissioner under the provisions of such article. Any sales tax on transient lodging imposed under the Nebraska Visitors Development Act shall be due and payable to the Tax Commissioner monthly on or before the twenty-fifth day of the month next succeeding each monthly period.

**Source:** Laws 1980, LB 499, § 16; Laws 1988, LB 797, § 8; Laws 2011, LB210, § 12.  
Operative date October 1, 2011.

#### (g) VENTURE CAPITAL NETWORK ACT

**81-1265 Repealed. Laws 2011, LB 455, § 1.**

**81-1266 Repealed. Laws 2011, LB 455, § 1.**

**81-1267 Repealed. Laws 2011, LB 455, § 1.**

**81-1268 Repealed. Laws 2011, LB 455, § 1.**

**81-1269 Repealed. Laws 2011, LB 455, § 1.**

**81-1270 Repealed. Laws 2011, LB 455, § 1.**

**81-1271 Repealed. Laws 2011, LB 455, § 1.**

#### (h) BUSINESS DEVELOPMENT PARTNERSHIP ACT

**81-1273 Legislative findings.**

The Legislature finds and declares:

(1) That the availability of business development services at various geographic locations throughout the state would result in the retention, expansion, and diversification of existing businesses and the creation of new businesses;

(2) That the Board of Regents of the University of Nebraska may authorize the Nebraska Business Development Center as a department of the University of Nebraska at Omaha. The Nebraska Business Development Center, if authorized under this section, may provide business development services through a network of small business development centers at: (a) Chadron State College, Peru State College, and Wayne State College, if authorized by the Board of Trustees of the Nebraska State Colleges; and (b) the University of Nebraska at Kearney, the University of Nebraska-Lincoln, and the University of Nebraska at Omaha, if authorized by the Board of Regents of the University of Nebraska;

(3) That business development services may be augmented through specialized research and technical assistance services; and

(4) That the Existing Business Assistance Division of the Department of Economic Development shall coordinate, administer, and support the delivery of such services.

**Source:** Laws 1987, LB 736, § 2; Laws 1989, LB 639, § 8; Laws 1989, LB 247, § 12; Laws 2011, LB334, § 5.  
Effective date March 11, 2011.

**81-1275 Nebraska Business Development Center; duties.**

If the Nebraska Business Development Center is authorized by the Board of Regents of the University of Nebraska pursuant to section 81-1273, the Existing Business Assistance Division shall contract with the Nebraska Business Development Center to administer, manage, and deliver regional small business services, and the Nebraska Business Development Center shall:

(1) Provide such services as close as possible to small businesses through a network of small business development centers located in Omaha, Lincoln, Kearney, Wayne, North Platte, Scottsbluff or Gering, Chadron, Peru, and such other communities as the Existing Business Assistance Division shall determine based on the applications of communities desiring to be the location of a small business development center. Small business development centers in such communities shall not be required if the location within a community is on property under the control of the Board of Regents of the University of Nebraska or the Board of Trustees of the Nebraska State Colleges and the governing body with control of such property has not authorized such small business development center pursuant to section 81-1273. In determining the location of small business development centers, the division shall consider several factors, including, but not limited to: (a) Preexisting small business development centers; (b) geographic accessibility; and (c) existing resources such as building space and office equipment or the willingness of a community to provide some or all of those resources. The division shall prescribe the form of the application for location of a small business development center and take all actions necessary in the processing of such applications;

(2) Integrate activities funded through the Business Development Partnership Act with those funded by the United States Small Business Administration or any other program supporting the Nebraska small business development centers;

- (3) Furnish one-to-one individual counseling to small businesses;
- (4) Assist in technology transfer, research, and coupling from existing sources to small businesses;
- (5) Maintain current information concerning federal, state, and local regulations that affect small businesses and counsel small business on methods of compliance;
- (6) Coordinate and conduct research into technical and general small business problems for which there are no ready solutions;
- (7) Provide and maintain a comprehensive library that contains current information and statistical data needed by small businesses;
- (8) Maintain a working relationship and open communications with the financial and investment communities, legal associations, local and regional private consultants, and local and regional small business groups and associations in order to help address the various needs of the small business community;
- (9) Conduct indepth surveys for local small business groups in order to develop general information regarding the local economy and general small business strengths and weaknesses in the locality; and
- (10) Provide other services as determined in consultation with the Existing Business Assistance Division.

**Source:** Laws 1987, LB 736, § 4; Laws 1989, LB 639, § 10; Laws 2011, LB334, § 6.  
Effective date March 11, 2011.

**81-1277 Existing Business Assistance Division; contracts; reports.**

The Existing Business Assistance Division shall require, as a condition of contracts awarded under the Business Development Services Program, satisfactory quarterly reports from recipients describing services provided, clients served, and expenditures. The division shall include, as part of the Department of Economic Development's annual status report under section 81-1201.11, a description of the services provided under the Business Development Partnership Act, an analysis of the impact of the services, recommendations regarding the services, and an evaluation of the performance of service deliverers.

**Source:** Laws 1987, LB 736, § 6; Laws 1989, LB 639, § 12; Laws 2011, LB404, § 6.  
Operative date January 1, 2012.

(m) MICROENTERPRISE DEVELOPMENT ACT

**81-1295 Repealed. Laws 2011, LB 387, § 18.**

Operative date October 1, 2011.

**81-1296 Repealed. Laws 2011, LB 387, § 18.**

Operative date October 1, 2011.

**81-1297 Repealed. Laws 2011, LB 387, § 18.**

Operative date October 1, 2011.

**81-1298 Repealed. Laws 2011, LB 387, § 18.**

Operative date October 1, 2011.

**81-1299 Repealed. Laws 2011, LB 387, § 18.**

Operative date October 1, 2011.

**81-12,100 Repealed. Laws 2011, LB 387, § 18.**

Operative date October 1, 2011.

**81-12,101 Repealed. Laws 2011, LB 387, § 18.**

Operative date October 1, 2011.

**81-12,102 Repealed. Laws 2011, LB 387, § 18.**

Operative date October 1, 2011.

**81-12,103 Repealed. Laws 2011, LB 387, § 18.**

Operative date October 1, 2011.

**81-12,104 Repealed. Laws 2011, LB 387, § 18.**

Note: This section was amended by Laws 2011, LB404, section 7, and repealed by Laws 2011, LB387, section 18.

Note: LB387 became operative October 1, 2011. LB404 became operative January 1, 2012.

**81-12,105 Repealed. Laws 2011, LB 387, § 18.**

Operative date October 1, 2011.

**81-12,105.01 Repealed. Laws 2011, LB 387, § 18.**

Operative date October 1, 2011.

## (p) BUILDING ENTREPRENEURIAL COMMUNITIES ACT

**81-12,125 Repealed. Laws 2011, LB 387, § 18.**

Operative date October 1, 2011.

**81-12,126 Repealed. Laws 2011, LB 387, § 18.**

Operative date October 1, 2011.

**81-12,127 Repealed. Laws 2011, LB 387, § 18.**

Operative date October 1, 2011.

**81-12,128 Repealed. Laws 2011, LB 387, § 18.**

Operative date October 1, 2011.

## (q) NEBRASKA OPERATIONAL ASSISTANCE ACT

**81-12,135 Information regarding activities; department; report.**

The Department of Economic Development shall submit information regarding its activities under the Nebraska Operational Assistance Act as part of the department's annual status report under section 81-1201.11.

**Source:** Laws 2007, LB425, § 7; Laws 2011, LB404, § 8.

Operative date January 1, 2012.

## (r) SMALL BUSINESS INNOVATION ACT

**81-12,136 Act, how cited.**

Sections 81-12,136 to 81-12,143 shall be known and may be cited as the Small Business Innovation Act.

**Source:** Laws 2011, LB345, § 1.  
Effective date May 25, 2011.  
Termination date December 31, 2013.

**81-12,137 Legislative intent.**

It is the intent of the Legislature to evolve Nebraska's economic development and job creation policies in order to remain competitive by adopting recommendations from the statewide strategic plan developed by the Innovation and Entrepreneurship Task Force. The strategic plan recognizes that Nebraska's current policy tools targeted to fostering high-wage job growth among small businesses, entrepreneurs, and innovators have not kept pace with other states and jurisdictions. Nebraska has a clear opportunity to improve our entrepreneurial ecosystem by adopting proactive policy solutions with demonstrated positive results.

**Source:** Laws 2011, LB345, § 2.  
Effective date May 25, 2011.  
Termination date December 31, 2013.

**81-12,138 Terms, defined.**

For purposes of the Small Business Innovation Act:

- (1) Department means the Department of Economic Development;
- (2) Nebraska-based growth business means a corporation, partnership, limited liability company, limited partnership, or limited liability partnership registered with the Secretary of State that has five to fifty employees and annual sales revenue of no less than five hundred thousand dollars and no more than two million five hundred thousand dollars; and
- (3) Small business innovation means the provision of technical resources to locally owned and operated Nebraska-based growth businesses to foster development, growth, and high-wage job creation.

**Source:** Laws 2011, LB345, § 3.  
Effective date May 25, 2011.  
Termination date December 31, 2013.

**81-12,139 Department; contract authorized.**

The department may enter into a contract with a Nebraska-based nonprofit entity, small business development center, community development corporation, Nebraska-based institution of higher education, chamber of commerce, or regional development district for the purpose of carrying out the Small Business Innovation Act.

**Source:** Laws 2011, LB345, § 4.  
Effective date May 25, 2011.  
Termination date December 31, 2013.

**81-12,140 Pilot program; established.**

(1) The Legislature hereby establishes a statewide pilot program to support and assist up to forty Nebraska-based growth businesses. At least one-half of the businesses assisted under the Small Business Innovation Act shall be located in counties with a population of fewer than fifty thousand inhabitants.

(2) The pilot program shall provide technical assistance to Nebraska-based growth businesses that includes:

(a) Economic gardening components and information tools, including industry trends, industry financial data, state and national demographic trends, competitive intelligence, and marketing lists; and

(b) Decisionmaking tools, including strategy analysis, management team makeup, capital referrals, and labor referrals.

**Source:** Laws 2011, LB345, § 5.  
Effective date May 25, 2011.  
Termination date December 31, 2013.

**81-12,141 Legislative intent for appropriations.**

It is the intent of the Legislature to appropriate two hundred thousand dollars from the General Fund for FY2011-12 and two hundred thousand dollars from the General Fund for FY2012-13 for the purpose of providing funding to carry out the Small Business Innovation Act.

**Source:** Laws 2011, LB345, § 6.  
Effective date May 25, 2011.  
Termination date December 31, 2013.

**81-12,142 Report; contents.**

The department shall prepare and present a report to the Legislature by December 1, 2013, on the Small Business Innovation Act that includes, but is not limited to, businesses assisted, aggregate change in sales revenue, number of jobs created, and range of newly created jobs that includes an average wage.

**Source:** Laws 2011, LB345, § 7.  
Effective date May 25, 2011.  
Termination date December 31, 2013.

**81-12,143 Act; termination.**

The Small Business Innovation Act terminates on December 31, 2013.

**Source:** Laws 2011, LB345, § 8.  
Effective date May 25, 2011.  
Termination date December 31, 2013.

(s) SITE AND BUILDING DEVELOPMENT ACT

**81-12,144 Act, how cited.**

Sections 81-12,144 to 81-12,151 shall be known and may be cited as the Site and Building Development Act.

**Source:** Laws 2011, LB388, § 1.  
Operative date October 1, 2011.

**81-12,145 Legislative findings.**

The Legislature finds that current economic conditions, lack of available industrial sites and buildings, and declining resources at all levels of government adversely affect the ability of Nebraska's cities and villages to obtain viable industrial sites on which to build businesses, obtain buildings, and create jobs. Lack of industrial sites and buildings also affects the ability of communities to maintain and develop stable and growth-prone economies.

Furthermore, the Legislature finds that Nebraska is at a competitive disadvantage for business development relative to other states in the nation due to a lack of appropriately sized industrial sites and buildings available for business relocations to Nebraska and expansions. The future of investment and jobs in Nebraska will suffer should the state continue to ignore this challenge.

To enhance the economic development of the state and to provide for the general prosperity of all of Nebraska's citizens, it is in the public interest to assist in the provision of industrial-ready sites and buildings in all areas of the state. The establishment of the Site and Building Development Fund will assist in creating conditions favorable to meeting the industrial readiness of the state.

**Source:** Laws 2011, LB388, § 2.

Operative date October 1, 2011.

**81-12,146 Site and Building Development Fund; created; funding.**

The Site and Building Development Fund is created. The fund shall receive money pursuant to section 76-903 and may include revenue from appropriations from the Legislature, grants, private contributions, repayment of loans, and all other sources. The Department of Economic Development, as part of its comprehensive business development strategy, shall administer the fund.

The State Treasurer shall transfer one million dollars from the Affordable Housing Trust Fund to the Site and Building Development Fund on or after January 1, 2012, but no later than January 10, 2012.

The State Treasurer shall transfer one million dollars from the Affordable Housing Trust Fund to the Site and Building Development Fund on or after January 1, 2013, but no later than January 10, 2013.

**Source:** Laws 2011, LB388, § 3.

Operative date October 1, 2011.

**81-12,147 Site and Building Development Fund; use; eligible activities.**

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:

(1) 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;

(2) Matching funds for new construction, rehabilitation, or acquisition of land and buildings to assist villages, cities, and counties;

(3) Technical assistance, design and finance services, and consultation for villages, cities, and counties for the creation of industrial-ready sites and buildings;

- (4) Loan guarantees for eligible projects;
- (5) Projects making industrial-ready sites and buildings more accessible to business and industry; and
- (6) Infrastructure projects necessary for the development of industrial-ready sites and buildings.

**Source:** Laws 2011, LB388, § 4.  
Operative date October 1, 2011.

**81-12,148 Entities eligible to receive assistance; matching funds.**

Governmental subdivisions and Nebraska nonprofit organizations are eligible to receive assistance under the Site and Building Development Act. Any entity receiving assistance under the act 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.

**Source:** Laws 2011, LB388, § 5.  
Operative date October 1, 2011.

**81-12,149 Department; allocate funds; qualified action plan; contents; powers of department.**

(1) During each calendar year in which funds are available from the Site and Building Development Fund for use by the Department of Economic Development, the department shall allocate a specific amount of funds, not less than forty percent, to nonmetropolitan areas. For purposes of this section, nonmetropolitan areas means counties with fewer than one hundred thousand inhabitants according to the most recent federal decennial census. In selecting projects to receive fund assistance, the department shall develop a qualified action plan by January 1 of each even-numbered year. The plan shall give first priority to financially viable projects that have an agreement with a business that will locate a site within ninety days of the signed agreement. The plan shall set forth selection criteria to be used to determine priorities of the fund which are appropriate to local conditions, including the community's immediate need for site and building development, proposed increases in jobs and investment, private dollars leveraged, level of local government support and participation, and repayment, in part or in whole, of financial assistance awarded by the fund. The Director of Economic Development, in consultation with the Economic Development Commission, shall submit the plan to the Governor for approval.

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

**Source:** Laws 2011, LB388, § 6.  
Operative date October 1, 2011.

**81-12,150 Rules and regulations.**



The Department of Economic Development, in consultation with the Economic Development Commission, shall adopt and promulgate rules and regulations to carry out the Site and Building Development Act.

**Source:** Laws 2011, LB388, § 7.  
Operative date October 1, 2011.

**81-12,151 Annual report.**

The Department of Economic Development shall submit an annual report regarding the Site and Building Development Act to the Legislature no later than July 1 of each year beginning July 1, 2012. The report shall contain no information that is protected by state or federal confidentiality laws.

**Source:** Laws 2011, LB388, § 8.  
Operative date October 1, 2011.

(t) BUSINESS INNOVATION ACT

**81-12,152 Act, how cited.**

Sections 81-12,152 to 81-12,167 shall be known and may be cited as the Business Innovation Act.

**Source:** Laws 2011, LB387, § 1.  
Operative date October 1, 2011.  
Termination date October 1, 2016.

**81-12,153 Terms, defined.**

For purposes of the Business Innovation Act:

- (1) Department means the Department of Economic Development;
- (2) Distressed area means a municipality, a county with a population of fewer than one hundred thousand inhabitants according to the most recent federal decennial census, an unincorporated area within a county, or a census tract in Nebraska that (a) has an unemployment rate which exceeds the statewide average unemployment rate, (b) has a per capita income below the statewide average per capita income, or (c) had a population decrease between the two most recent federal decennial censuses;
- (3) Federal grant program means the federal Small Business Administration's Small Business Innovation Research grant program;
- (4) Microenterprise means a for-profit business entity with not more than ten full-time equivalent employees;
- (5) Prototype means an original model on which something is patterned by a resident of Nebraska or a company located in Nebraska; and
- (6) Value-added agriculture means increasing the net worth of food or nonfood agricultural products by processing, alternative production and handling methods, collective marketing, or other innovative practices.

**Source:** Laws 2011, LB387, § 2.  
Operative date October 1, 2011.  
Termination date October 1, 2016.

**81-12,154 Purpose of act.**

The purpose of the Business Innovation Act is to encourage and support the transfer of Nebraska-based technology and innovation in rural and urban areas of Nebraska in order to create high growth, high technological companies, small businesses, and microenterprises and to enhance creation of wealth and quality jobs. The Legislature finds that the act will:

- (1) Provide technical assistance planning grants pursuant to section 81-12,157 to facilitate phase one applications for the federal grant program;
- (2) Provide financial assistance pursuant to section 81-12,157 to companies receiving phase one and phase two grants pursuant to the federal grant program;
- (3) Provide financial assistance pursuant to section 81-12,158 to companies or individuals creating prototypes;
- (4) Establish a financial assistance program pursuant to section 81-12,159 for innovation in value-added agriculture;
- (5) Establish a financial assistance program pursuant to section 81-12,160 to identify commercial products and processes;
- (6) Provide financial assistance pursuant to section 81-12,161 to companies using Nebraska public or private college and university researchers and facilities for applied research projects; and
- (7) Provide support and funding pursuant to section 81-12,162 for microlending and microenterprise entities.

**Source:** Laws 2011, LB387, § 3.  
Operative date October 1, 2011.  
Termination date October 1, 2016.

**81-12,155 Qualified action plan; department; duties; contents.**

In selecting projects to receive financial assistance under the Business Innovation Act, the department shall develop a qualified action plan by January 1 of each even-numbered year. The plan shall set forth selection criteria to be used to determine priorities which are appropriate to local conditions and the state's economy, including the state's immediate need for innovation development, proposed increases in jobs and investment, private dollars leveraged, industry support and participation, and repayment, in part or in whole, of financial assistance awarded under the act. The Economic Development Commission shall submit the plan to the Governor for approval.

**Source:** Laws 2011, LB387, § 4.  
Operative date October 1, 2011.  
Termination date October 1, 2016.

**81-12,156 Funding; use.**

At least forty percent of the funding for financial assistance programs in sections 81-12,157 to 81-12,162 shall be used for projects that best alleviate chronic economic distress in distressed areas.

**Source:** Laws 2011, LB387, § 5.  
Operative date October 1, 2011.  
Termination date October 1, 2016.

**81-12,157 Planning grants; phase one program; limitations.**

(1) The department shall establish a phase one program to provide grants to small businesses that qualify under the federal grant program for the purposes of planning for an application under the federal grant program. If a small business receives funding under the federal grant program, the department or a nonprofit entity designated by the department may make grants to match up to sixty-five percent of the amount of the federal grant.

(2) Planning grants under subsection (1) of this section shall not exceed five thousand dollars per project. Federal award matching grants under this section shall not exceed one hundred thousand dollars. No business shall receive funding for more than one project every two years.

(3) The department shall not award more than one million dollars per year for grants under this section.

**Source:** Laws 2011, LB387, § 6.

Operative date October 1, 2011.

Termination date October 1, 2016.

**81-12,158 Financial assistance program to create prototype of certain products; established; funds; match required; limitation.**

(1) The department shall establish a financial assistance program to provide financial assistance to businesses that employ no more than five hundred employees or to individuals for the purposes of creating a prototype of a product stemming from research and development at a business operating in Nebraska or a public or private college or university in Nebraska.

(2) Funds shall be matched by nonstate funds equivalent in money equal to fifty percent of the funds requested. Matching funds may be from any nonstate source, including private foundations, federal or local government sources, quasi-governmental entities, or commercial lending institutions, or any other funds whose source does not include funds appropriated by the Legislature. The amount the department may provide shall not exceed fifty thousand dollars per project.

(3) A business or individual applying for financial assistance under this section shall include a business plan that includes a proof-of-concept demonstration.

(4) Financial assistance under this section shall be expended within twenty-four months after the date of the awarding decision.

(5) The department shall not award more than one million dollars per year for financial assistance under this section.

**Source:** Laws 2011, LB387, § 7.

Operative date October 1, 2011.

Termination date October 1, 2016.

**81-12,159 Innovation in value-added agriculture program; established; purpose; eligibility; match required; limitation.**

(1) The department shall establish an innovation in value-added agriculture program. The purpose of this program is to provide financial assistance to:

(a) Support small enterprise formation in the agricultural sector of Nebraska's rural economy, including innovative efforts for value-added enterprises;

(b) Support the development of agricultural communities and economic opportunity through innovation in farming and ranching operations, rural communities, and businesses for the development of value-added agricultural products;

(c) Enhance the income and opportunity for farming and ranching operations in Nebraska in order to stem the decline in their numbers;

(d) Increase the farming and ranching operations' share of the food-system profit;

(e) Enhance opportunities for farming and ranching operations to participate in electronic commerce and new and emerging markets that strengthen rural economic opportunities; and

(f) Encourage the production and marketing of specialty crops in Nebraska and support the creation and development of agricultural enterprises and businesses that produce and market specialty crops in Nebraska.

(2) Agricultural cooperatives, farming or ranching operations, and private businesses and enterprises operating in Nebraska shall be eligible for financial assistance under this section.

(3) An entity receiving financial assistance shall provide a match of twenty-five percent for such assistance.

(4) The department shall not award more than one million dollars per year for financial assistance under this section.

**Source:** Laws 2011, LB387, § 8.

Operative date October 1, 2011.

Termination date October 1, 2016.

**81-12,160 Financial assistance program to commercialize product or process; established; purpose; funds; match required; limitation.**

(1) The department shall establish a financial assistance program to provide financial assistance to businesses operating in Nebraska that employ no more than five hundred employees or to individuals that have a prototype of a product or process for the purposes of commercializing such product or process. The applicant shall submit a feasibility study stating the potential sales and profit projections for the product or process.

(2) The department shall create a program with the following provisions to support commercialization of a product or process:

(a) Commercialization infrastructure documentation, including market assessments and start-up strategic planning;

(b) Promotion, marketing, advertising, and consulting;

(c) Management and business planning support;

(d) Linking companies and entrepreneurs to mentors;

(e) Preparing companies and entrepreneurs to acquire venture capital; and

(f) Linking companies to sources of capital.

(3) Funds shall be matched by nonstate funds equal to fifty percent of the funds requested. Matching funds may be from any nonstate source, including private foundations, federal or local government sources, quasi-governmental entities, or commercial lending institutions, or any other funds whose source does not include funds appropriated by the Legislature.

(4) The department shall not provide more than five hundred thousand dollars to any one project, and such financial assistance shall not exceed fifty percent of the cost of the project. The department shall not award more than two million dollars per year for financial assistance under this section.

(5) Financial assistance provided under this section shall be expended within twenty-four months after the date of the awarding decision.

**Source:** Laws 2011, LB387, § 9.  
Operative date October 1, 2011.  
Termination date October 1, 2016.

**81-12,161 Financial assistance program relating to college or university research and development; established; funds; match required; limitation.**

(1) The department shall establish a financial assistance program to provide financial assistance to businesses operating in Nebraska that use the faculty or facilities of a public or private college or university in Nebraska for applied research and development of new products or use intellectual property generated at a public or private college or university in Nebraska.

(2) A business may apply for up to two awards in any four-year period per project. The department may provide up to one hundred thousand dollars for the first phase of a project. If the first phase is successful and agreed-upon contractual requirements are met during the first phase, the department may provide up to four hundred thousand dollars for the second phase of the project.

(3) Funds shall be matched by nonstate funds equivalent in money equal to one hundred percent of the funds requested for both phases of the program. Matching funds may be from any nonstate source, including private foundations, federal or local government sources, quasi-governmental entities, or commercial lending institutions, or any other funds whose source does not include funds appropriated by the Legislature.

(4) The department shall not award more than three million dollars per year for financial assistance under this section.

**Source:** Laws 2011, LB387, § 10.  
Operative date October 1, 2011.  
Termination date October 1, 2016.

**81-12,162 Small business investment program; established; award; criteria; considerations; funds; match required; department; contracts authorized; limitation.**

(1) The department shall establish a small business investment program. The program:

(a) Shall provide grants to microloan delivery or microloan technical assistance organizations to:

(i) Better assure that Nebraska's microenterprises are able to realize their full potential to create jobs, enhance entrepreneurial skills and activity, and increase low-income households' capacity to become self-sufficient;

(ii) Provide funding to foster the creation of microenterprises;

(iii) Establish the department as the coordinating office for the facilitation of microlending and microenterprise development;

(iv) Facilitate the development of a permanent, statewide infrastructure of microlending support organizations to serve Nebraska's microenterprise and self-employment sectors;

(v) Enable the department to provide grants to community-based microenterprise development organizations in order to encourage the development and growth of microenterprises throughout Nebraska; and

(vi) Enable the department to engage in contractual relationships with statewide microlending support organizations which have the capacity to leverage additional nonstate funds for microenterprise lending.

To the maximum extent possible, the selection process should assure that the distribution of such financial assistance provides equitable access to the benefits of the Business Innovation Act by all geographic areas of the state; and

(b) May identify and coordinate other state and federal sources of funds which may be available to the department to enhance the state's ability to facilitate financial assistance pursuant to the program.

(2) To establish the criteria for making an award to a microloan delivery or microloan technical assistance organization, the department shall consider:

(a) The plan for providing business development services and microloans to microenterprises;

(b) The scope of services to be provided by the microloan delivery or microloan technical assistance organization;

(c) The plan for coordinating the services and loans provided by the microloan delivery or microloan technical assistance organization with commercial lending institutions;

(d) The geographic representation of all regions of the state, including both urban and rural communities and neighborhoods;

(e) The ability of the microloan delivery or microloan technical assistance organization to provide for business development in areas of chronic economic distress and low-income regions of the state;

(f) The ability of the microloan delivery or microloan technical assistance organization to provide business training and technical assistance to microenterprise clients;

(g) The ability of the microloan delivery or microloan technical assistance organization to monitor and provide financial oversight of recipients of microloans; and

(h) Sources and sufficiency of operating funds for the microenterprise development organization.

(3) Awards made by the department to a microloan delivery or microloan technical assistance organization may be used to:

(a) Satisfy matching fund requirements for other federal or private grants;

(b) Establish a revolving loan fund from which the microloan delivery or microloan technical assistance organization may make loans to microenterprises;

(c) Establish a guaranty fund from which the microloan delivery or microloan technical assistance organization may guarantee loans made by commercial lending institutions to microenterprises;

(d) Provide funding for the operating costs of a microloan delivery or microloan technical assistance organization not to exceed twenty percent; and

(e) Provide grants to establish loan-loss reserve funds to match loan capital borrowed from other sources, including federal microenterprise loan programs.

(4) Any award of financial assistance to a microloan delivery or microloan technical assistance organization shall meet the following qualifications:

(a) Funds shall be matched by nonstate funds equivalent in money or in-kind contributions or a combination of both equal to thirty-five percent of the grant funds requested. Such matching funds may be from any nonstate source, including private foundations, federal or local government sources, quasi-governmental entities, or commercial lending institutions, or any other funds whose source does not include funds appropriated by the Legislature;

(b) At least seventy percent of microloan funds shall be disbursed in microloans which do not exceed fifty thousand dollars or used to capitalize loan-loss reserve funds for such loans; and

(c) At least thirty percent of the microloan funds shall be used by microenterprise development assistance organizations for small business technical assistance.

The department may contract with one or more statewide microenterprise development assistance organizations to carry out this section.

(5) Each year the department shall award at least five hundred thousand dollars but not more than one million dollars under this section.

**Source:** Laws 2011, LB387, § 11.

Operative date October 1, 2011.

Termination date October 1, 2016.

#### **81-12,163 Appropriations; legislative intent.**

(1) It is the intent of the Legislature to appropriate seven million dollars from the General Fund to the department for the Business Innovation Act for each of fiscal years 2011-12 and 2012-13.

(2) Up to five percent of the funds appropriated may be used by the department, or by a nonprofit entity with which the department contracts, for administrative expenses.

**Source:** Laws 2011, LB387, § 12.

Operative date October 1, 2011.

Termination date October 1, 2016.

#### **81-12,164 Rules and regulations.**

The department, in consultation with the Economic Development Commission, may adopt and promulgate rules and regulations to carry out the Business Innovation Act, including application procedures.

**Source:** Laws 2011, LB387, § 13.

Operative date October 1, 2011.

Termination date October 1, 2016.

#### **81-12,165 Department; contract authorized.**

The department may enter into a contract with a Nebraska-based nonprofit entity for the purposes of carrying out any or all of the provisions of the Business Innovation Act.

**Source:** Laws 2011, LB387, § 14.  
Operative date October 1, 2011.  
Termination date October 1, 2016.

**81-12,166 Report; contents.**

The department shall submit an annual report to the Governor and the Legislature on or before July 1 of each year which includes, but is not limited to, a description of the demand for financial assistance and programs under the Business Innovation Act from all geographic regions in Nebraska, a listing of the recipients and amounts of financial assistance awarded pursuant to the act in the previous fiscal year, the impact of the financial assistance, and an evaluation of the act's performance based on the documented goals of the recipients. The department may require recipients to provide periodic performance reports to enable the department to fulfill the requirements of this section. The report shall contain no information that is protected by state or federal confidentiality laws.

**Source:** Laws 2011, LB387, § 15.  
Operative date October 1, 2011.  
Termination date October 1, 2016.

**81-12,167 Act; termination.**

The Business Innovation Act terminates on October 1, 2016.

**Source:** Laws 2011, LB387, § 16.  
Operative date October 1, 2011.  
Termination date October 1, 2016.

**ARTICLE 13**

**PERSONNEL**

(a) STATE PERSONNEL SERVICE

Section

81-1316. State Personnel System; exemptions.

(c) STATE EMPLOYEES COLLECTIVE BARGAINING ACT

81-1369. Act, how cited.

81-1371. Terms, defined.

81-1372. Act; supplementary to Industrial Relations Act.

81-1373. Bargaining units; created; other employee units.

81-1374. Repealed. Laws 2011, LB 397, § 36.

81-1375. Certified collective-bargaining agents; procedures applicable.

81-1378. Computation of dates; effect.

81-1379. Negotiations; when commenced and completed; negotiated agreements; requirements; supplementary bargaining.

81-1380. Repealed. Laws 2011, LB 397, § 36.

81-1381. Submission to mediator; selection of mediator.

81-1382. Unresolved issues; final offers; prehearing conference; commission; authority.

81-1383. Commission order; commission; powers; duties; procedure; modification; appeal.

81-1384. Chief or appointed negotiator; report.

81-1385. Commission proceeding; effect on employment; order; interest.

81-1386. Prohibited practices; enumerated; expressions permitted.



## Section

81-1387. Prohibited practices; proceedings; appeal; grounds.

81-1389. Repealed. Laws 2011, LB 397, § 36.

81-1390. Repealed. Laws 2011, LB 397, § 36.

## (a) STATE PERSONNEL SERVICE

**81-1316 State Personnel System; exemptions.**

(1) All agencies and personnel of state government shall be covered by sections 81-1301 to 81-1319 and shall be considered subject to the State Personnel System, except the following:

- (a) All personnel of the office of the Governor;
- (b) All personnel of the office of the Lieutenant Governor;
- (c) All personnel of the office of the Secretary of State;
- (d) All personnel of the office of the State Treasurer;
- (e) All personnel of the office of the Attorney General;
- (f) All personnel of the office of the Auditor of Public Accounts;
- (g) All personnel of the Legislature;
- (h) All personnel of the court systems;
- (i) All personnel of the Board of Educational Lands and Funds;
- (j) All personnel of the Public Service Commission;
- (k) All personnel of the Nebraska Brand Committee;
- (l) All personnel of the Commission of Industrial Relations;
- (m) All personnel of the State Department of Education;
- (n) All personnel of the Nebraska state colleges and the Board of Trustees of the Nebraska State Colleges;
- (o) All personnel of the University of Nebraska;
- (p) All personnel of the Coordinating Commission for Postsecondary Education;
- (q) All personnel of the Governor's Policy Research Office, but not to include personnel within the State Energy Office;
- (r) All personnel of the Commission on Public Advocacy;
- (s) All agency heads;
- (t)(i) The Director of Behavioral Health of the Division of Behavioral Health;
- (ii) the Director of Children and Family Services of the Division of Children and Family Services; (iii) the Director of Developmental Disabilities of the Division of Developmental Disabilities; (iv) the Director of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term Care; (v) the Director of Public Health of the Division of Public Health; and (vi) the Director of Veterans' Homes of the Division of Veterans' Homes;
- (u) The chief medical officer established under section 81-3115, the Administrator of the Office of Juvenile Services, and the chief executive officers of the Beatrice State Developmental Center, Lincoln Regional Center, Norfolk Regional Center, Hastings Regional Center, Grand Island Veterans' Home, Norfolk Veterans' Home, Eastern Nebraska Veterans' Home, Western Nebraska Veterans' Home, Youth Rehabilitation and Treatment Center-Kearney, and Youth Rehabilitation and Treatment Center-Geneva;

(v) The chief executive officers of all facilities operated by the Department of Correctional Services and the medical director for the department appointed pursuant to section 83-4,156;

(w) All personnel employed as pharmacists, physicians, psychiatrists, or psychologists by the Department of Correctional Services;

(x) All personnel employed as pharmacists, physicians, psychiatrists, psychologists, service area administrators, or facility operating officers of the Department of Health and Human Services;

(y) Deputies and examiners of the Department of Banking and Finance and the Department of Insurance as set forth in sections 8-105 and 44-119, except for those deputies and examiners who remain in the State Personnel System; and

(z) All personnel of the Tax Equalization and Review Commission.

(2) At each agency head's discretion, up to the following number of additional positions may be exempted from the State Personnel System, based on the following agency size categories:

Number of Agency Employees	Number of Noncovered Positions
less than 25	0
25 to 100	1
101 to 250	2
251 to 500	3
501 to 1000	4
1001 to 2000	5
2001 to 3000	8
3001 to 4000	11
4001 to 5000	14
over 5000	50

The purpose of having such noncovered positions shall be to allow agency heads the opportunity to recruit, hire, and supervise critical, confidential, or policymaking personnel without restrictions from selection procedures, compensation rules, career protections, and grievance privileges. Persons holding the noncovered positions shall serve at the pleasure of the agency head and shall be paid salaries set by the agency head. An agency with over five thousand employees shall provide notice in writing to the Health and Human Services Committee of the Legislature when forty noncovered positions have been filled by the agency head pursuant to this subsection.

(3) No changes to this section or to the number of noncovered positions within an agency shall affect the status of personnel employed on the date the changes become operative without their prior written agreement. A state employee's career protections or coverage by personnel rules and regulations shall not be revoked by redesignation of the employee's position as a noncovered position without the prior written agreement of such employee.

**Source:** Laws 1967, c. 573, § 16, p. 1896; Laws 1969, c. 802, § 8, p. 3025; Laws 1971, LB 637, § 1; Laws 1987, LB 491, § 13; Laws 1988, LB 1106, § 1; Laws 1996, LB 1044, § 867; Laws 1998, LB 1073, § 165; Laws 2000, LB 654, § 41; Laws 2002, LB 876, § 86; Laws 2002, LB 1062, § 65; Laws 2003, LB 85, § 3; Laws 2003, LB 245, § 16; Laws 2006, LB 994, § 114; Laws 2007, LB296, § 756; Laws

2008, LB745, § 1; Laws 2008, LB965, § 23; Laws 2011, LB218, § 1.

Effective date August 27, 2011.

**Cross References**

For other exemptions, see sections 49-14,121 and 72-1242.

(c) STATE EMPLOYEES COLLECTIVE BARGAINING ACT

**81-1369 Act, how cited.**

Sections 81-1369 to 81-1388 shall be known and may be cited as the State Employees Collective Bargaining Act.

**Source:** Laws 1987, LB 661, § 1; Laws 2011, LB397, § 19.

Operative date October 1, 2011.

**81-1371 Terms, defined.**

For purposes of the State Employees Collective Bargaining Act, unless the context otherwise requires:

(1) Chief Negotiator shall mean the Chief Negotiator of the Division of Employee Relations of the Department of Administrative Services;

(2) Commission shall mean the Commission of Industrial Relations;

(3) Division shall mean the Division of Employee Relations of the Department of Administrative Services;

(4) Employee or state employee shall mean any employee of the State of Nebraska;

(5) Employer or state employer shall mean the State of Nebraska and shall not include any political subdivision thereof;

(6) Employer-representative shall mean (a) for negotiations involving employees of the University of Nebraska, the Board of Regents, (b) for negotiations involving employees of the Nebraska state colleges, the Board of Trustees of the Nebraska State Colleges, (c) for negotiations involving employees of other constitutional agencies, the governing officer or body for each such agency, and (d) for negotiations involving other state employees, the Governor;

(7) Grievance shall mean a management action resulting in an injury, injustice, or wrong involving a misinterpretation or misapplication of applicable labor contracts if so agreed to by the appropriate parties;

(8) Issue shall mean broad subjects of negotiation which are presented to the commission pursuant to section 81-1382. All aspects of wages shall be a single issue, all aspects of insurance shall be a single issue, and all other subjects of negotiations classified in broad categories shall be single issues;

(9) Mandatory topic or topics of bargaining shall mean those subjects of negotiation on which employers must negotiate pursuant to the Industrial Relations Act, including terms and conditions of employment which may otherwise be provided by law for state employees, except when specifically prohibited by law from being a subject of bargaining; and

(10) Meet-and-confer rights shall mean the rights of employees to discuss wages, hours, and other terms and conditions of employment with the appropriate employer-representative but shall not require either party to enter into a written agreement. Employees afforded meet-and-confer rights shall not be

entitled to utilize the impasse resolution procedures provided in the State Employees Collective Bargaining Act or to file a petition with the commission invoking its jurisdiction as provided in the Industrial Relations Act for the purpose of obtaining an order or orders under section 48-818. Meet-and-confer rights shall not apply to any bargaining unit other than a supervisory unit.

**Source:** Laws 1987, LB 661, § 3; Laws 1992, Third Spec. Sess., LB 14, § 25; Laws 2011, LB397, § 20.  
Operative date October 1, 2011.

**Cross References**

**Industrial Relations Act**, see section 48-801.01.

**81-1372 Act; supplementary to Industrial Relations Act.**

The State Employees Collective Bargaining Act shall be deemed controlling for state employees and state employers covered by such act and is supplementary to the Industrial Relations Act except when otherwise specifically provided or when inconsistent with the Industrial Relations Act, in which case the State Employees Collective Bargaining Act shall prevail.

The State of Nebraska, its employees, employee organizations, and exclusive collective-bargaining agents shall have all the rights and responsibilities afforded employers, employees, employee organizations, and exclusive collective-bargaining agents pursuant to the Industrial Relations Act to the extent that such act is not inconsistent with the State Employees Collective Bargaining Act.

**Source:** Laws 1987, LB 661, § 4; Laws 2011, LB397, § 21.  
Operative date October 1, 2011.

**Cross References**

**Industrial Relations Act**, see section 48-801.01.

**81-1373 Bargaining units; created; other employee units.**

(1) For the purpose of implementing the state employees' right to organize for the purpose of collective bargaining, there are hereby created twelve bargaining units for all state agencies except the University of Nebraska, the Nebraska state colleges, and other constitutional offices. The units shall consist of state employees whose job classifications are occupationally and functionally related and who share a community of interest. The bargaining units shall be:

(a) Maintenance, Trades, and Technical, which unit is composed of generally recognized blue collar and technical classes, including highway maintenance workers, carpenters, plumbers, electricians, print shop workers, auto mechanics, engineering aides and associates, and similar classes;

(b) Administrative Support, which unit is composed of clerical and administrative nonprofessional classes, including typists, secretaries, accounting clerks, computer operators, office service personnel, and similar classes;

(c) Health and Human Care Nonprofessional, which unit is composed of institutional care classes, including nursing aides, psychiatric aides, therapy aides, and similar classes;

(d) Social Services and Counseling, which unit is composed of generally professional-level workers providing services and benefits to eligible persons. Classes shall include job service personnel, income maintenance personnel, social workers, counselors, and similar classes;

(e) Administrative Professional, which unit is composed of professional employees with general business responsibilities, including accountants, buyers, personnel specialists, data processing personnel, and similar classes;

(f) Protective Service, which unit is composed of institutional security personnel, including correctional officers, building security guards, and similar classes;

(g) Law Enforcement, which unit is composed of employees holding powers of arrest, including Nebraska State Patrol officers and sergeants, conservation officers, fire marshal personnel, and similar classes. Sergeants, investigators, and patrol officers employed by the Nebraska State Patrol as authorized in section 81-2004 shall be presumed to have a community of interest with each other and shall be included in this bargaining unit notwithstanding any other provision of law which may allow for the contrary;

(h) Health and Human Care Professional, which unit is composed of community health, nutrition, and health service professional employees, including nurses, doctors, psychologists, pharmacists, dietitians, licensed therapists, and similar classes;

(i) Examining, Inspection, and Licensing, which unit is composed of employees empowered to review certain public and business activities, including driver-licensing personnel, revenue agents, bank and insurance examiners who remain in the State Personnel System under sections 8-105 and 44-119, various public health and protection inspectors, and similar classes;

(j) Engineering, Science, and Resources, which unit is composed of specialized professional scientific occupations, including civil and other engineers, architects, chemists, geologists and surveyors, and similar classes;

(k) Teachers, which unit is composed of employees required to be licensed or certified as a teacher; and

(l) Supervisory, which unit is composed of employees who are supervisors as defined in section 48-801.

All employees who are excluded from bargaining units pursuant to the Industrial Relations Act, all employees of the personnel division of the Department of Administrative Services, and all employees of the Division of Employee Relations of the Department of Administrative Services shall be excluded from any bargaining unit of state employees.

(2) Any employee organization, including one which represents other state employees, may be certified or recognized as provided in the Industrial Relations Act as the exclusive collective-bargaining agent for a supervisory unit, except that such unit shall not have full collective-bargaining rights but shall be afforded only meet-and-confer rights.

(3) It is the intent of the Legislature that professional and managerial employee classifications and office and service employee classifications be grouped in broad occupational units for the University of Nebraska and the Nebraska state colleges established on a university-wide or college-system-wide basis, including all campuses within the system. Any unit entirely composed of supervisory employees of the University of Nebraska or the Nebraska state colleges shall be afforded only meet-and-confer rights. The bargaining units for academic, faculty, and teaching employees of the University of Nebraska and the Nebraska state colleges shall continue as they existed on April 9, 1987, plus the addition of Kearney State College, and any adjustments thereto or new

units therefor shall continue to be determined pursuant to the Industrial Relations Act.

(4) Other constitutional offices shall continue to subscribe to the procedures for unit determination in the Industrial Relations Act, except that the commission is further directed to determine the bargaining units in such manner as to (a) reduce the effect of overfragmentation of bargaining units on the efficiency of administration and operations of the constitutional office and (b) be consistent with the administrative structure of the constitutional office. Any unit entirely composed of supervisory employees of a constitutional office shall be afforded only meet-and-confer rights.

**Source:** Laws 1987, LB 661, § 5; Laws 1988, LB 684, § 2; Laws 1989, LB 247, § 13; Laws 1992, Third Spec. Sess., LB 14, § 26; Laws 2003, LB 85, § 4; Laws 2011, LB397, § 22.  
Operative date October 1, 2011.

**Cross References**

**Industrial Relations Act**, see section 48-801.01.

**81-1374 Repealed. Laws 2011, LB 397, § 36.**

Operative date October 1, 2011.

**81-1375 Certified collective-bargaining agents; procedures applicable.**

Certified collective-bargaining agents representing bargaining units other than those prescribed in section 81-1373 shall not utilize the impasse procedures provided for in sections 81-1381 to 81-1385 nor file a petition with the commission invoking its jurisdiction as provided in the Industrial Relations Act.

**Source:** Laws 1987, LB 661, § 7; Laws 2011, LB397, § 23.  
Operative date October 1, 2011.

**Cross References**

**Industrial Relations Act**, see section 48-801.01.

**81-1378 Computation of dates; effect.**

(1) The dates indicated in sections 81-1379 to 81-1384 shall refer to those dates immediately preceding the beginning of the contract period for which negotiations are being conducted.

(2) When any date provided in sections 81-1379 to 81-1384 falls on a Saturday, a Sunday, or any day declared by statutory enactment or proclamations of the Governor to be a holiday, the next following day which is not a Saturday, a Sunday, or a day declared by the enactment or proclamation to be a holiday shall be deemed to be the day indicated by such date.

(3) The dates indicated in sections 81-1382 and 81-1383 are jurisdictional. Failure of either party to act in a timely manner shall result in a jurisdictional bar for either the commission or Supreme Court.

**Source:** Laws 1987, LB 661, § 10; Laws 2011, LB397, § 24.  
Operative date October 1, 2011.

**81-1379 Negotiations; when commenced and completed; negotiated agreements; requirements; supplementary bargaining.**

The Chief Negotiator and any other employer-representative and the exclusive collective-bargaining agent shall commence negotiations on or prior to the

second Wednesday in September of the year preceding the beginning of the contract period, except that the first negotiations commenced by any bargaining unit may commence after such September date in order to accommodate any unresolved representation proceedings. All negotiations shall be completed on or before March 15 of the following year.

All negotiated agreements shall be in writing and signed by the parties. The authority to enter into the agreed-upon contract shall be vested in the following:

- (1) For the University of Nebraska, the Board of Regents;
- (2) For the Nebraska state colleges, the Board of Trustees of the Nebraska State Colleges;
- (3) For other constitutional offices, the head of such office;
- (4) For all other agencies, the Governor; and
- (5) For the bargaining unit, a majority of those voting on ratification after notice of the contract terms is given and a secret ballot vote has been taken.

Nothing in the State Employees Collective Bargaining Act shall be construed to prohibit supplementary bargaining on behalf of employees in part of a bargaining unit concerning matters uniquely affecting such employees or cooperation and coordination of bargaining between two or more bargaining units. Supplementary bargaining in regard to employees for whom the Governor is the employer-representative shall be the responsibility of the Chief Negotiator and may be assigned to his or her designated representative.

Any agreements entered into pursuant to this section may be adjusted after March 15 only to reflect any order issued by the commission or the Supreme Court.

**Source:** Laws 1987, LB 661, § 11; Laws 1991, LB 732, § 149; Laws 2011, LB397, § 25.  
Operative date October 1, 2011.

**81-1380 Repealed. Laws 2011, LB 397, § 36.**

Operative date October 1, 2011.

**81-1381 Submission to mediator; selection of mediator.**

If the parties in labor contract negotiations do not reach a voluntary agreement by January 1, the dispute shall be submitted to a mediator mutually selected by the parties or appointed by the Federal Mediation and Conciliation Service. Mediation may continue indefinitely at the request of either party or when appropriate in the judgment of the mediator. If necessary, mediation may continue after the exchange of final offers.

**Source:** Laws 1987, LB 661, § 13; Laws 2011, LB397, § 26.  
Operative date October 1, 2011.

**81-1382 Unresolved issues; final offers; prehearing conference; commission; authority.**

(1) No later than January 10, the parties in labor contract negotiations shall reduce to writing and sign all agreed-upon issues and exchange final offers on each unresolved issue. Final offers may not be amended or modified without the concurrence of the other party.

(2) No later than January 15, the parties in labor contract negotiations shall submit all unresolved issues that resulted in impasse to the commission. No party shall submit an issue to the commission that was not subject to negotiations. The commission shall conduct a prehearing conference and shall have the authority to:

- (a) Determine whether the issues are ready for adjudication;
- (b) Accept stipulations;
- (c) Schedule hearings;
- (d) Prescribe rules of conduct for the hearings;
- (e) Order additional mediation if necessary; and
- (f) Take any other actions which may aid in the disposal of the action.

The commission may consult with the parties ex parte only with the concurrence of both parties.

**Source:** Laws 1987, LB 661, § 14; Laws 2011, LB397, § 27.  
Operative date October 1, 2011.

**81-1383 Commission order; commission; powers; duties; procedure; modification; appeal.**

(1) No later than March 1, the commission shall enter an order on each unresolved issue.

(2)(a) The commission's order shall establish rates of pay and conditions of employment which are comparable to the prevalent wage rates paid and conditions of employment maintained by peer employers for the same or similar work of workers exhibiting like or similar skills under the same or similar working conditions.

(b)(i) In establishing wage rates, the commission shall take into consideration the overall compensation received by the employees at the time of the negotiations, having regard to:

- (A) Wages for time actually worked;
- (B) Wages for time not worked, including vacations, holidays, and other excused time, and all benefits received, including insurance and pensions; and
- (C) The continuity and stability of employment enjoyed by the employees.

(ii) The commission shall determine whether the total compensation of the members of the bargaining unit or classification falls within a ninety-eight percent to one hundred two percent range of the array's midpoint. If the total compensation falls within the ninety-eight percent to one hundred two percent range, the commission shall order no change in wage rates. If the total compensation is less than ninety-eight percent of the midpoint, the commission shall enter an order increasing wage rates to ninety-eight percent of the midpoint. If the total compensation is more than one hundred two percent of the midpoint, the commission shall enter an order decreasing wage rates to one hundred two percent of the midpoint. If the total compensation is more than one hundred seven percent of the midpoint, the commission shall enter an order reducing wage rates to one hundred two percent of the midpoint in three equal annual reductions. If the total compensation is less than ninety-three percent of the midpoint, the commission shall enter an order increasing wage rates to ninety-eight percent of the midpoint in three equal annual increases. If the commission finds that the year in dispute occurred during a time of



recession, the applicable range will be ninety-five percent to one hundred two percent. For purposes of this section, recession occurrence means the two nearest quarters in time, excluding the immediately preceding quarter, to the effective date of the contract term in which the sum of the net state sales and use tax, individual income tax, and corporate income tax receipts are less than the same quarters for the prior year. Each of these receipts shall be rate and base adjusted for state law changes. The Department of Revenue shall report and publish such receipts on a quarterly basis.

(c) For purposes of determining peer employer comparability, the following factors shall be used by the commission:

(i) Geographic proximity of the employer;

(ii) Size of the employer, which shall not be more than twice or less than one-half, unless evidence establishes that there are substantial differences which cause the work or conditions of employment to be dissimilar;

(iii) The employer's budget for operations and personnel; and

(iv) Nothing in this subdivision (2)(c) of this section shall prevent parties from stipulating to an array member that does not otherwise meet the criteria in such subdivision, and nothing in such subdivision shall prevent parties from stipulating to less than seven or more than nine array members.

(d) To determine comparability for employees of the Board of Regents of the University of Nebraska or employees of the Board of Trustees of the Nebraska State Colleges, the commission shall utilize peer institutions with similar enrollments and similar educational missions which may exclude land grant institutions or institutions that have a medical center or hospital. Additionally, the commission shall refer to peer institutions with similar program offerings including the level of degrees offered.

(e) Any order or orders entered may be modified on the commission's own motion or on application by any of the parties affected, but only upon a showing of a new and material change in the conditions from those prevailing at the time the original order was entered.

(3) In cases filed under the State Employees Collective Bargaining Act, the commission shall not be bound by the usual common law or statutory rules of evidence or by any technical or formal rules of procedure, other than those adopted pursuant to section 48-809. The commission shall receive evidence relating to array selection, job match, and wages and benefits which have been assembled by telephone, electronic transmission, or mail delivery and any such evidence shall be accompanied by an affidavit from the employer or any other person with personal knowledge which affidavit shall demonstrate the affiant's personal knowledge and competency to testify on the matters therein. The commission, with the consent of the parties to the dispute and in the presence of the parties to the dispute, may contact an individual employed by an employer under consideration as an array member by telephone to inquire as to the nature or value of a working condition, wage, or benefit provided by that particular employer as long as the individual in question has personal knowledge about the information being sought. The commission may rely upon information gained in such inquiry for its decision. Opinion testimony shall be received by the commission based upon evidence provided in accordance with this subsection. Testimony concerning job match shall be received if job match inquiries were conducted by telephone, electronic transmission, or mail deliv-

ery if the witness providing such testimony verifies the method of such job match inquiry and analysis.

(4) The commission shall file its findings of fact and conclusions of law with its order.

(5) Either party may, within thirty days after the date such order is filed, appeal to the Supreme Court. The standard of review for any appeal to the Supreme Court shall be as provided in subsection (4) of section 48-825.

(6) The commission or the Supreme Court shall not enter an order for any period which is not the same as or included within the budget period for which the contract is being negotiated.

(7) All items agreed upon during the course of negotiations and not submitted as an unresolved issue to the commission shall, when ratified by the parties, take effect concurrent with the biennial budget period and shall constitute the parties' contract. Upon final resolution of appeals of all unresolved issues, the parties shall reduce the orders of the commission or the Supreme Court to writing and incorporate them into the contract without ratification.

**Source:** Laws 1987, LB 661, § 15; Laws 1991, LB 732, § 150; Laws 2011, LB397, § 28.

Operative date October 1, 2011.

**81-1384 Chief or appointed negotiator; report.**

On March 16, the Chief Negotiator, any appointed negotiator for the Board of Regents, any appointed negotiator for the Board of Trustees of the Nebraska State Colleges, and any appointed negotiator for other constitutional offices shall report to the Legislature and the Governor on the status of negotiations. The Governor may amend his or her budget recommendations accordingly.

**Source:** Laws 1987, LB 661, § 16; Laws 2011, LB397, § 29.

Operative date October 1, 2011.

**81-1385 Commission proceeding; effect on employment; order; interest.**

When an unresolved issue proceeds to the commission, there shall be no change in the term or condition of employment in effect in that issue or issues until the commission has ruled and any subsequent appeal to the Supreme Court has been concluded. Orders adjusting the term or condition of employment in an issue or issues shall be effective beginning with final resolution of the appeal. Upon final resolution, the commission or Supreme Court shall order increases or other changes in a term or condition of employment to be concurrent with the biennial budget. Interest shall be paid, at the rate established by section 45-103 which is in effect at the time of the final order, by the state on all withheld wages or insurance premium payments.

**Source:** Laws 1987, LB 661, § 17; Laws 1991, LB 732, § 151; Laws 2011, LB397, § 30.

Operative date October 1, 2011.

**81-1386 Prohibited practices; enumerated; expressions permitted.**

(1) It shall be a prohibited practice for any employer, employee, employee organization, or exclusive collective-bargaining agent to refuse to negotiate in good faith with respect to mandatory topics of bargaining.

(2) It shall be a prohibited practice for any employer or the employer's negotiator to:

(a) Interfere with, restrain, or coerce state employees in the exercise of rights granted by the State Employees Collective Bargaining Act or the Industrial Relations Act;

(b) Dominate or interfere in the administration of any employee organization;

(c) Encourage or discourage membership in any employee organization, committee, or association by discrimination in hiring, tenure, or other terms or conditions of employment;

(d) Discharge or discriminate against a state employee because the employee has filed an affidavit, petition, or complaint or given any information or testimony under the Industrial Relations Act or the State Employees Collective Bargaining Act or because the employee has formed, joined, or chosen to be represented by any employee organization;

(e) Refuse to negotiate collectively with representatives of exclusive collective-bargaining agents as required in the Industrial Relations Act and the State Employees Collective Bargaining Act;

(f) Deny the rights accompanying certification or exclusive recognition granted in the Industrial Relations Act or the State Employees Collective Bargaining Act; and

(g) Refuse to participate in good faith in any impasse procedures for state employees as set forth in sections 81-1381 to 81-1385.

(3) It shall be a prohibited practice for any employees, employee organization, or bargaining unit or for any of their representatives or exclusive collective-bargaining agents to:

(a) Interfere with, restrain, coerce, or harass any state employee with respect to any of the employee's rights under the Industrial Relations Act or the State Employees Collective Bargaining Act;

(b) Interfere, restrain, or coerce an employer with respect to rights granted in the Industrial Relations Act or the State Employees Collective Bargaining Act or with respect to selecting a representative for the purposes of negotiating collectively on the adjustment of grievances;

(c) Refuse to bargain collectively with an employer as required in the Industrial Relations Act or the State Employees Collective Bargaining Act; and

(d) Refuse to participate in good faith in any impasse procedures for state employees set forth in sections 81-1381 to 81-1385.

(4) The expressing of any views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of any unfair labor practice under any of the provisions of the Industrial Relations Act or the State Employees Collective Bargaining Act if such expression contains no threat of reprisal or force or promise of benefit.

**Source:** Laws 1987, LB 661, § 18; Laws 2011, LB397, § 31.

Operative date October 1, 2011.

**Cross References**

Industrial Relations Act, see section 48-801.01.

**81-1387 Prohibited practices; proceedings; appeal; grounds.**

(1) Proceedings against a party alleging a violation of section 81-1386 shall be commenced by filing a complaint with the commission within one hundred eighty days of the alleged violation thereby causing a copy of the complaint to be served upon the accused party. The accused party shall have ten days within which to file a written answer to the complaint. If the commission determines that the complaint has no basis in fact, the commission may dismiss the complaint. If the complaint has a basis in fact, the commission shall set a time for hearing. The parties shall be permitted to be represented by counsel, summon witnesses, and request the commission to subpoena witnesses on the requester's behalf.

(2) The commission shall file its findings of fact and conclusions of law. If the commission finds that the party accused has committed a prohibited practice, the commission, within thirty days of its decision, shall order an appropriate remedy. Any party may petition the district court for injunctive relief pursuant to rules of civil procedure.

(3) Any party aggrieved by any decision or order of the commission may, within thirty days from the date such decision or order is filed, appeal therefrom to the Supreme Court.

(4) Any order or decision of the commission may be modified, reversed, or set aside by the appellate court on one or more of the following grounds and on no other:

- (a) If the commission acts without or in excess of its powers;
- (b) If the order was procured by fraud or is contrary to law;
- (c) If the facts found by the commission do not support the order; and
- (d) If the order is not supported by a preponderance of the competent evidence on the record considered as a whole.

**Source:** Laws 1987, LB 661, § 19; Laws 1991, LB 732, § 152; Laws 1992, LB 360, § 38; Laws 2011, LB397, § 32.  
Operative date October 1, 2011.

**81-1389 Repealed. Laws 2011, LB 397, § 36.**  
Operative date October 1, 2011.

**81-1390 Repealed. Laws 2011, LB 397, § 36.**  
Operative date October 1, 2011.

## ARTICLE 14

### LAW ENFORCEMENT

#### (a) LAW ENFORCEMENT TRAINING

##### Section

81-1403. Council; duties; administrative fine.

81-1404. Director of Nebraska Law Enforcement Training Center; duties.

#### (b) COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

81-1423. Commission; powers; duties.

81-1425. Executive director; powers; duties.

#### (e) OFFICE OF VIOLENCE PREVENTION

81-1447. Office of Violence Prevention; established; director; advisory council; members; terms; vacancy.

## (a) LAW ENFORCEMENT TRAINING

**81-1403 Council; duties; administrative fine.**

Subject to review and approval by the commission, the council shall:

(1) Adopt and promulgate rules and regulations for law enforcement pre-certification, certification, continuing education, and training requirements. Such rules and regulations may include the authority to impose a fine on any individual, political subdivision, or agency who or which violates such rules and regulations. The fine for each separate violation of any rule or regulation shall not exceed either (a) a one-time maximum fine of five hundred dollars or (b) a maximum fine of one hundred dollars per day until the individual, political subdivision, or agency complies with such rules or regulations. All fines collected pursuant to this subdivision shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska;

(2) Adopt and promulgate rules and regulations for the operation of the training center;

(3) Recommend to the executive director of the commission the names of persons to be appointed to the position of director of the training center;

(4) Establish requirements for satisfactory completion of pre-certification programs, certification programs, and advanced training programs;

(5) Issue certificates or diplomas attesting satisfactory completion of pre-certification programs, certification programs, and advanced training programs;

(6) Revoke or suspend such certificates or diplomas according to rules and regulations established by the council for reasons which shall include, but not be limited to, (a) incompetence, (b) neglect of duty, (c) physical, mental, or emotional incapacity, and (d) final conviction of or pleading guilty or nolo contendere to a felony. The rules and regulations shall provide for revocation of a certificate holder's certificate without a hearing upon his or her final conviction of or pleading guilty or nolo contendere to a felony. For purposes of this subdivision, felony means a crime punishable by imprisonment for a term of more than one year or a crime committed outside of Nebraska which would be punishable by imprisonment for a term of more than one year if committed in Nebraska. The rules and regulations shall include a procedure for hearing appeals of any person who feels that the revocation or suspension of his or her certificate or diploma was in error;

(7) Set the tuition and fees for the training center and all officers of other training academies not employed by that training academy's agency. The tuition and fees set for the training center pursuant to this subdivision shall be adjusted annually pursuant to the training center budget approved by the Legislature. All other tuition and fees shall be set in order to cover the costs of administering sections 81-1401 to 81-1414. All tuition and fees shall be remitted to the State Treasurer for credit to the Nebraska Law Enforcement Training Center Cash Fund;

(8) Annually certify any training academies providing a basic course of law enforcement training which complies with the qualifications and standards promulgated by the council and offering training that meets or exceeds training that is offered by the training center. The council shall set the maximum and

minimum applicant enrollment figures for training academies training non-agency officers;

(9) Extend the programs of the training center throughout the state on a regional basis;

(10) Establish the qualifications and standards and provide the training required by section 81-1439; and

(11) Do all things necessary to carry out the purpose of the training center, except that functional authority for budget and personnel matters shall remain with the commission.

Any administrative fine imposed under this section shall constitute a debt to the State of Nebraska which may be collected by lien foreclosure or sued for and recovered in any proper form of action by the office of the Attorney General in the name of the State of Nebraska in the district court of the county where the final agency action was taken. All fines imposed by the council shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

**Source:** Laws 1969, c. 773, § 3, p. 2926; Laws 1971, LB 929, § 3; Laws 1984, LB 673, § 1; Laws 1988, LB 666, § 1; Laws 1994, LB 971, § 3; Laws 2000, LB 994, § 4; Laws 2005, LB 115, § 1; Laws 2011, LB390, § 16.

Operative date July 1, 2011.

#### **81-1404 Director of Nebraska Law Enforcement Training Center; duties.**

The director of the Nebraska Law Enforcement Training Center shall devote full time to the duties of the office and shall not engage in any other business or profession or hold any other state public office. The director shall be responsible to the executive director of the commission for the operation of the training center and the conducting of training programs. The director of the training center shall:

(1) Appoint and remove for cause such employees as may be necessary for the operation of the training center and delegate appropriate powers and duties to them;

(2) Conduct research for the purpose of evaluating and improving the effectiveness of law enforcement training programs;

(3) Consult with the council on all matters pertaining to training schools and training academies;

(4) Supervise the administration of the pre-certification competency test;

(5) Ensure that all council rules and regulations with respect to law enforcement pre-certification, certification, continuing education, and training requirements are implemented and followed, and in that capacity, act as the director of standards for the council;

(6) Advise the council concerning the operation of the training center, the requirements, as set by the council, for all training schools and training academies, and the formulation of training policies and regulations; and

(7) Issue diplomas to students who successfully complete the prescribed basic course of study.

**Source:** Laws 1969, c. 773, § 4, p. 2927; Laws 1971, LB 929, § 4; Laws 1994, LB 971, § 4; Laws 2000, LB 994, § 5; Laws 2011, LB390, § 17.

Operative date July 1, 2011.

## (b) COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

**81-1423 Commission; powers; duties.**

The commission shall have authority to:

(1) Adopt and promulgate rules and regulations for its organization and internal management and rules and regulations governing the exercise of its powers and the fulfillment of its purposes under sections 81-1415 to 81-1426;

(2) Delegate to one or more of its members such powers and duties as it may deem proper;

(3) Coordinate and jointly pursue its activities with the Governor's Policy Research Office;

(4) Appoint and abolish such advisory committees as may be necessary for the performance of its functions and delegate appropriate powers and duties to them;

(5) Plan improvements in the administration of criminal justice and promote their implementation;

(6) Make or encourage studies of any aspect of the administration of criminal justice;

(7) Conduct research and stimulate research by public and private agencies which shall be designed to improve the administration of criminal justice;

(8) Coordinate activities relating to the administration of criminal justice among agencies of state and local government;

(9) Cooperate with the federal and other state authorities concerning the administration of criminal justice;

(10) Accept and administer loans, grants, and donations from the United States, its agencies, the State of Nebraska, its agencies, and other sources, public and private, for carrying out any of its functions, except that no communications equipment shall be acquired and no approval for acquisition of communications equipment shall be granted without receiving the written approval of the Director of Communications of the office of Chief Information Officer;

(11) Enter into contracts, leases, and agreements necessary, convenient, or desirable for carrying out its purposes and the powers granted under sections 81-1415 to 81-1426 with agencies of state or local government, corporations, or persons;

(12) Acquire, hold, and dispose of personal property in the exercise of its powers;

(13) Conduct random annual audits of criminal justice agencies to verify the accuracy and completeness of criminal history record information maintained by such agencies and to determine compliance with laws and regulations dealing with the dissemination, security, and privacy of criminal history information;

(14) Do all things necessary to carry out its purposes and for the exercise of the powers granted in sections 81-1415 to 81-1426, except that no activities or transfers or expenditures of funds available to the commission shall be inconsistent with legislative policy as reflected in substantive legislation, legislative intent legislation, or appropriations legislation;

(15) Exercise budgetary and administrative control over the Crime Victim's Reparations Committee and the Jail Standards Board; and

(16) Do all things necessary to carry out sections 81-1843 to 81-1851.

**Source:** Laws 1969, c. 774, § 9, p. 2934; Laws 1971, LB 225, § 1; Laws 1975, LB 427, § 20; Laws 1978, LB 713, § 27; Laws 1979, LB 412, § 11; Laws 1979, LB 322, § 57; Laws 1981, LB 477, § 7; Laws 1981, LB 545, § 36; Laws 1981, LB 328, § 1; Laws 1986, LB 540, § 1; Laws 1994, LB 971, § 15; Laws 2003, LB 46, § 16; Laws 2004, LB 270, § 4; Laws 2005, LB 538, § 21; Laws 2006, LB 921, § 10; Laws 2011, LB390, § 18.

Operative date July 1, 2011.

**Cross References**

**Crime victim's reparations**, see Chapter 81, article 18.

**Jail Standards Board**, see sections 83-4,124 to 83-4,134.

**81-1425 Executive director; powers; duties.**

The executive director of the commission shall:

(1) Supervise and be responsible for the administration of the policies established by the commission;

(2) Establish a Jail Standards subdivision and a Community Corrections Division within the commission and establish, consolidate, or abolish any administrative subdivision within the commission and appoint and remove for cause the heads thereof, and delegate appropriate powers and duties to them;

(3) Establish and administer projects and programs for the operation of the commission;

(4) Appoint and remove employees of the commission and delegate appropriate powers and duties to them;

(5) Make rules and regulations for the management and the administration of policies of the commission and the conduct of employees under his or her jurisdiction;

(6) Collect, develop, maintain, and analyze statistical information, records, and reports as the commission may determine relevant to its functions, including, but not limited to, the statistical information set forth in section 47-627;

(7) Transmit monthly to the commission a report of the operations of the commission for the preceding calendar month;

(8) Execute and carry out the provisions of all contracts, leases, and agreements authorized by the commission with agencies of federal, state, or local government, corporations, or persons;

(9) Perform such additional duties as may be assigned to him or her by the commission, by the chairperson of the commission, or by law;

(10) Appoint and remove for cause the director of the Nebraska Law Enforcement Training Center;

(11) Appoint and remove for cause the director of the Office of Violence Prevention; and



(12) Exercise all powers and perform all duties necessary and proper in carrying out his or her responsibilities.

**Source:** Laws 1969, c. 774, § 11, p. 2935; Laws 1981, LB 328, § 2; Laws 2000, LB 1008, § 3; Laws 2003, LB 46, § 17; Laws 2005, LB 538, § 22; Laws 2011, LB390, § 19.  
Operative date July 1, 2011.

(e) OFFICE OF VIOLENCE PREVENTION

**81-1447 Office of Violence Prevention; established; director; advisory council; members; terms; vacancy.**

(1) There is established within the Nebraska Commission on Law Enforcement and Criminal Justice the Office of Violence Prevention. The office shall consist of a director, appointed by the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice, and other necessary support staff. There also is established an advisory council to the Office of Violence Prevention. The members of the advisory council shall be appointed by the Governor and serve at his or her discretion. The advisory council shall consist of six members and, of those members, each congressional district, as such districts existed on May 28, 2009, shall have at least one member on the council. The Governor shall consider appointing members representing the following areas, if practicable: Two members representing local government; two members representing law enforcement; one member representing community advocacy; and one member representing education with some expertise in law enforcement and juvenile crime.

(2) Members of the advisory council shall serve for terms of four years. A member may be reappointed at the expiration of his or her term. Any vacancy occurring other than by expiration of a term shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

**Source:** Laws 2009, LB63, § 37; Laws 2011, LB390, § 20.  
Operative date July 1, 2011.

**ARTICLE 15**

**ENVIRONMENTAL PROTECTION**

(a) ENVIRONMENTAL PROTECTION ACT

Section

81-1505. Council; rules and regulations; standards of air, land, and water quality.  
81-1505.04. Annual emission fee; payment; amount; adjustment; allocation of costs; department; duties; report.

(k) WASTEWATER TREATMENT FACILITIES CONSTRUCTION ASSISTANCE ACT

81-15,147. Act, how cited.  
81-15,158. Repealed. Laws 2011, LB 383, § 9.

(l) WASTE REDUCTION AND RECYCLING

81-15,162. Fees on tires; collection; disbursement.  
81-15,164. Collection of fees; manner.

(n) NEBRASKA ENVIRONMENTAL TRUST ACT

81-15,174. Nebraska Environmental Trust Fund; created; use; investment.  
81-15,175. Fund allocations; board; powers and duties; grant award to Water Resources Cash Fund; payments; legislative intent; additional grant; additional reporting.

## (a) ENVIRONMENTAL PROTECTION ACT

**81-1505 Council; rules and regulations; standards of air, land, and water quality.**

(1) In order to carry out the purposes of the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act, the council shall adopt and promulgate rules and regulations which shall set standards of air, water, and land quality to be applicable to the air, waters, and land of this state or portions thereof. Such standards of quality shall be such as to protect the public health and welfare. The council shall classify air, water, and land contaminant sources according to levels and types of discharges, emissions, and other characteristics which relate to air, water, and land pollution and may require reporting for any such class or classes. Such classifications and standards made pursuant to this section may be made for application to the state as a whole or to any designated area of the state and shall be made with special reference to effects on health, economic and social factors, and physical effects on property. Such standards and classifications may be amended as determined necessary by the council.

(2) In adopting the classifications of waters and water quality standards, the primary purpose for such classifications and standards shall be to protect the public health and welfare and the council shall give consideration to:

(a) The size, depth, surface area, or underground area covered, the volume, direction, and rate of flow, stream gradient, and temperature of the water;

(b) The character of the area affected by such classification or standards, its peculiar suitability for particular purposes, conserving the value of the area, and encouraging the most appropriate use of lands within such area for domestic, agricultural, industrial, recreational, and aquatic life purposes;

(c) The uses which have been made, are being made, or are likely to be made, of such waters for agricultural, transportation, domestic, and industrial consumption, for fishing and aquatic culture, for the disposal of sewage, industrial waste, and other wastes, or other uses within this state and, at the discretion of the council, any such uses in another state on interstate waters flowing through or originating in this state;

(d) The extent of present pollution or contamination of such waters which has already occurred or resulted from past discharges therein; and

(e) Procedures pursuant to section 401 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., for certification by the department of activities requiring a federal license or permit which may result in a discharge.

(3) In adopting effluent limitations or prohibitions, the council shall give consideration to the type, class, or category of discharges and the quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable or other waters of the state, including schedules of compliance, best practicable control technology, and best available control technology.

(4) In adopting standards of performance, the council shall give consideration to the discharge of pollutants which reflect the greatest degree of effluent reduction which the council determines to be achievable through application of the best available demonstrated control technology, processes, operating meth-

ods, or other alternatives, including, when practicable, a standard permitting no discharge of pollutants.

(5) In adopting toxic pollutant standards and limitations, the council shall give consideration to the combinations of pollutants, the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, and the nature and extent of the effect of the toxic pollutant on such organisms.

(6) In adopting pretreatment standards, the council shall give consideration to the prohibitions or limitations to noncompatible pollutants, prohibitions against the passage through a publicly owned treatment works of pollutants which would cause interference with or obstruction to the operation of publicly owned treatment works, damage to such works, and the prevention of the discharge of pollutants therefrom which are inadequately treated.

(7) In adopting treatment standards, the council shall give consideration to providing for processes to which wastewater shall be subjected in a publicly owned wastewater treatment works in order to make such wastewater suitable for subsequent use.

(8) In adopting regulations pertaining to the disposal of domestic and industrial liquid wastes, the council shall give consideration to the minimum amount of biochemical oxygen demand, suspended solids, or equivalent in the case of industrial wastewaters, which must be removed from the wastewaters and the degree of disinfection necessary to meet water quality standards with respect to construction, installation, change of, alterations in, or additions to any wastewater treatment works or disposal systems, including issuance of permits and proper abandonment, and requirements necessary for proper operation and maintenance thereof.

(9)(a) The council shall adopt and promulgate rules and regulations for controlling mineral exploration holes and mineral production and injection wells. The rules and regulations shall include standards for the construction, operation, and abandonment of such holes and wells. The standards shall protect the public health and welfare and air, land, water, and subsurface resources so as to control, minimize, and eliminate hazards to humans, animals, and the environment. Consideration shall be given to:

(i) Area conditions such as suitability of location, geologic formations, topography, industry, agriculture, population density, wildlife, fish and other aquatic life, sites of archeological and historical importance, mineral, land, and water resources, and the existing economic activities of the area including, but not limited to, agriculture, recreation, tourism, and industry;

(ii) A site-specific evaluation of the geologic and hydrologic suitability of the site and the injection, disposal, and production zones;

(iii) The quality of the existing ground water, the effects of exemption of the aquifer from any existing water quality standards, and requirements for restoration of the aquifer;

(iv) Standards for design and use of production facilities, which shall include, but not be limited to, all wells, pumping equipment, surface structures, and associated land required for operation of injection or production wells; and

(v) Conditions required for closure, abandonment, or restoration of mineral exploration holes, injection and production wells, and production facilities in

order to protect the public health and welfare and air, land, water, and subsurface resources.

(b) The council shall establish fees for regulated activities and facilities and for permits for such activities and facilities. The fees shall be sufficient but shall not exceed the amount necessary to pay the department for the direct and indirect costs of evaluating, processing, and monitoring during and after operation of regulated facilities or performance of regulated activities.

(c) With respect to mineral production wells, the council shall adopt and promulgate rules and regulations which require restoration of air, land, water, and subsurface resources and require mineral production well permit applications to include a restoration plan for the air, land, water, and subsurface resources affected. Such rules and regulations may provide for issuance of a research and development permit which authorizes construction and operation of a pilot plant by the permittee for the purpose of demonstrating the permittee's ability to inject and restore in a manner which meets the standards required by this subsection and the rules and regulations.

The rules and regulations adopted and promulgated may also provide for issuance of a commercial permit after a finding by the department that the injection and restoration procedures authorized by the research and development permit have been successful in demonstrating the applicant's ability to inject and restore in a manner which meets the standards required by this subsection and the rules and regulations.

(d) For the purpose of this subsection, unless the context otherwise requires, restoration shall mean the employment, during and after an activity, of procedures reasonably designed to control, minimize, and eliminate hazards to humans, animals, and the environment, to protect the public health and welfare and air, land, water, and subsurface resources, and to return each resource to a quality of use consistent with the uses for which the resource was suitable prior to the activity.

(10) In adopting livestock waste control regulations, the council shall consider the discharge of livestock wastes into the waters of the state or onto land not owned by the livestock operator, conditions under which permits for such operations may be issued, including design, location, and proper management of such facilities, protection of ground water from such operations, and revocation, modification, or suspension of such permits for cause and all requirements of the Livestock Waste Management Act.

(11) In adopting regulations for the issuance of permits under the National Pollutant Discharge Elimination System created by the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., the council shall consider when such permits shall be required and exemptions, application and filing requirements, terms and conditions affecting such permits, notice and public participation, duration and review of such permits, and monitoring, recording, and reporting under the system.

(12) The council shall adopt and promulgate rules and regulations for air pollution control which shall include:

(a) A construction permit program which requires the owner or operator of an air contaminant source to obtain a permit prior to construction. Application fees shall be according to section 81-1505.06;

(b) An operating permit program consistent with requirements of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and an operating permit program for minor sources of air pollution, which programs shall require permits for both new and existing sources;

(c) Provisions for operating permits to be issued after public notice, to be terminated, modified, or revoked for cause, and to be modified to incorporate new requirements;

(d) Provisions for applications to be on forms provided by the department and to contain information necessary to make a determination on the appropriateness of issuance or denial. The department shall make a completeness determination in a timely fashion and after such determination shall act on the application within time limits set by the council. Applications for operating permits shall include provisions for certification of compliance by the applicant;

(e) Requirements for operating permits which may include such conditions as necessary to protect public health and welfare, including, but not limited to (i) monitoring and reporting requirements on all sources subject to the permit, (ii) payment of annual fees sufficient to pay the reasonable direct and indirect costs of developing and administering the air quality permit program, (iii) retention of records, (iv) compliance with all air quality standards, (v) a permit term of no more than five years from date of issuance, (vi) any applicable schedule of compliance leading to compliance with air quality regulations, (vii) site access to the department for inspection of the facility and records, (viii) emission limits or control technology requirements, (ix) periodic compliance certification, and (x) other conditions necessary to carry out the purposes of the Environmental Protection Act. For purposes of this subsection, control technology shall mean a design, equipment, a work practice, an operational standard which may include a requirement for operator training or certification, or any combination thereof;

(f) Classification of air quality control regions;

(g) Standards for air quality that may be established based upon protection of public health and welfare, emission limitations established by the United States Environmental Protection Agency, and maximum achievable control technology standards for sources of toxic air pollutants. For purposes of this subdivision, maximum achievable control technology standards shall mean an emission limit or control technology standard which requires the maximum degree of emission reduction that the council, taking into consideration the cost of achieving such emission reduction, any health and environmental impacts not related to air quality, and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which the standard applies through application of measures, processes, methods, systems, or techniques, including, but not limited to, measures which accomplish one or a combination of the following:

(i) Reduce the volume of or eliminate emissions of the pollutants through process changes, substitution of materials, or other modifications;

(ii) Enclose systems or processes to eliminate emissions; or

(iii) Collect, capture, or treat the pollutants when released from a process, stack, storage, or fugitive emission point;

(h) Restrictions on open burning and fugitive emissions;

(i) Provisions for issuance of general operating permits, after public notice, for sources with similar operating conditions and for revoking such general authority to specific permittees;

(j) Provisions for implementation of any emissions trading programs as defined by the department. Such programs shall be consistent with the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and administered through the operating permit program;

(k) A provision that operating permits will not be issued if the Environmental Protection Agency objects in a timely manner;

(l) Provisions for periodic reporting of emissions;

(m) Limitations on emissions from process operations, fuel-burning equipment, and incinerator emissions and such other restrictions on emissions as are necessary to protect the public health and welfare;

(n) Time schedules for compliance;

(o) Requirements for owner or operator testing and monitoring of emissions;

(p) Control technology requirements when it is not feasible to prescribe or enforce an emission standard; and

(q) Procedures and definitions necessary to carry out payment of the annual emission fee set in section 81-1505.04.

(13)(a) In adopting regulations for hazardous waste management, the council shall give consideration to generation of hazardous wastes, labeling practices, containers used, treatment, storage, collection, transportation including a manifest system, processing, resource recovery, and disposal of hazardous wastes. It shall consider the permitting, licensing, design and construction, and development and operational plans for hazardous waste treatment, storage, and disposal facilities, and conditions for licensing or permitting of hazardous waste treatment, storage, and disposal areas. It shall consider modification, suspension, or revocation of such licenses and permits, including requirements for waste analysis, site improvements, fire prevention, safety, security, restricted access, and covering and handling of hazardous liquids and materials. Licenses and permits for hazardous waste, treatment, storage, and disposal facilities shall not be issued until certification by the State Fire Marshal as to fire prevention and fire safety has been received by the department. The council shall further consider the need at treatment, storage, or disposal facilities for required equipment, communications and alarms, personnel training, and contingency plans for any emergencies that might arise and for a coordinator during such emergencies.

In addition the council shall give consideration to (i) ground water monitoring, (ii) use and management of containers and tanks, (iii) surface impoundments, (iv) waste piles, (v) land treatment, (vi) incinerators, (vii) chemical or biological treatment, (viii) landfills including the surveying thereof, and (ix) special requirements for ignitable, reactive, or incompatible wastes.

In considering closure and postclosure of hazardous waste treatment, storage, or disposal facilities, the council shall consider regulations that would result in the owner or operator closing his or her facility so as to minimize the need for future maintenance, and to control, minimize, or eliminate, to the extent necessary to protect humans, animals, and the environment, postclosure escape of hazardous waste, hazardous waste constituents, and leachate to the ground water or surface waters, and to control, minimize, or eliminate, to the

extent necessary to protect humans, animals, and the environment, waste decomposition to the atmosphere. In considering corrective action for hazardous waste treatment, storage, or disposal facilities, the council shall consider regulations that would require the owner or operator, or any previous owner or operator with actual knowledge of the presence of hazardous waste at the facility, to undertake corrective action or such other response measures necessary to protect human health or the environment for all releases of hazardous waste or hazardous constituents from any treatment, storage, or disposal facility or any solid waste management unit at such facility regardless of the time at which waste was placed in such unit.

Such regulations adopted pursuant to this subsection shall in all respects comply with the Environmental Protection Act and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq.

(b) In adopting regulations for hazardous waste management, the council shall consider, in addition to criteria in subdivision (a) of this subsection, establishing criteria for (i) identifying hazardous waste including extraction procedures, toxicity, persistence, and degradability in nature, potential for accumulation in tissue, flammability or ignitability, corrosiveness, reactivity, and generation of pressure through decomposition, heat, or other means, and other hazardous characteristics, (ii) listing all materials it deems hazardous and which should be subject to regulation, and (iii) locating treatment, storage, or disposal facilities for such wastes. In adopting criteria for flammability and ignitability of wastes pursuant to subdivision (b)(i) of this subsection, no regulation shall be adopted without the approval of the State Fire Marshal.

(c) In adopting regulations for hazardous waste management, the council shall establish a schedule of fees to be paid to the director by licensees or permittees operating hazardous waste processing facilities or disposal areas on the basis of a monetary value per cubic foot or per pound of the hazardous wastes, sufficient but not exceeding the amount necessary to reimburse the department for the costs of monitoring such facilities or areas during and after operation of such facilities or areas. The licensees may assess a cost against persons using the facilities or areas. The director shall remit any money collected from fees paid to him or her to the State Treasurer who shall credit the entire amount thereof to the General Fund.

(d) In adopting regulations for solid waste disposal, the council shall consider storage, collection, transportation, processing, resource recovery, and disposal of solid waste, developmental and operational plans for solid waste disposal areas, conditions for permitting of solid waste disposal areas, modification, suspension, or revocation of such permits, regulations of operations of disposal areas, including site improvements, fire prevention, ground water protection, safety and restricted access, handling of liquid and hazardous materials, insect and rodent control, salvage operations, and the methods of disposing of accumulations of junk outside of solid waste disposal areas. Such regulations shall in all respects comply with the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq.

(14) In adopting regulations governing discharges or emissions of oil and other hazardous materials into the waters, in the air, or upon the land of the state, the council shall consider the requirements of the Integrated Solid Waste Management Act, methods for prevention of such discharges or emissions, and

the responsibility of the discharger or emitter for cleanup, toxicity, degradability, and dispersal characteristics of the substance.

(15) In adopting regulations governing composting and composting sites, the council shall give consideration to:

(a) Approval of a proposed site by the local governing body, including the zoning authority, if any, prior to issuance of a permit by the department;

(b) Issuance of permits by the department for such composting operations, with conditions if necessary;

(c) Submission of construction and operational plans by the applicant for a permit to the department, with approval of such plans before issuance of such permit;

(d) A term of up to ten years for such permits;

(e) Renewal of permits if the operation has been in substantial compliance with composting regulations adopted pursuant to this subsection, permit conditions, and operational plans;

(f) Review by the department of materials to be composted, including chemical analysis when found by the department to be necessary;

(g) Inspections of such compost sites by the department. Operations out of compliance with composting regulations, permit conditions, or operational plans shall be given a reasonable time for voluntary compliance, and failure to do so within the specified time shall result in a hearing after notice is given, at which time the owner or operator shall appear and show cause why his or her permit should not be revoked;

(h) Special permits of the department for demonstration projects not to exceed six months;

(i) Exemptions from permits of the department; and

(j) The Integrated Solid Waste Management Act.

(16) Any person operating or responsible for the operation of air, water, or land contaminant sources of any class for which the rules and regulations of the council require reporting shall make reports containing information as may be required by the department concerning quality and quantity of discharges and emissions, location, size, and height of contaminant outlets, processes employed, fuels used, and the nature and time periods or duration of discharges and emissions, and such other information as is relevant to air, water, or land pollution and is available.

(17) Prior to adopting, amending, or repealing standards and classifications of air, water, and land quality and rules and regulations under the Integrated Solid Waste Management Act or the Livestock Waste Management Act, the council shall, after due notice, conduct public hearings thereon. Notice of public hearings shall specify the waters or the area of the state for which standards of air, water, or land are sought to be adopted, amended, or repealed and the time, date, and place of such hearing. Such hearing shall be held in the general area to be affected by such standards. Such notice shall be given in accordance with the Administrative Procedure Act.

(18) Standards of quality of the air, water, or land of the state and rules and regulations adopted under the Integrated Solid Waste Management Act or the Livestock Waste Management Act or any amendment or repeal of such standards or rules and regulations shall become effective upon adoption by the



council and filing in the office of the Secretary of State. In adopting standards of air, water, and land quality or making any amendment thereof, the council shall specify a reasonable time for persons discharging wastes into the air, water, or land of the state to comply with such standards and upon the expiration of any such period of time may revoke or modify any permit previously issued which authorizes the discharge of wastes into the air, water, or land of this state which results in reducing the quality of such air, water, or land below the standards established therefor by the council.

(19) All standards of quality of air, water, or land and all rules and regulations adopted pursuant to law by the council prior to May 29, 1981, and applicable to specified air, water, or land are hereby approved and adopted as standards of quality of and rules and regulations for such air, water, or land.

(20) In addition to such standards as are heretofore authorized, the council shall adopt and promulgate rules and regulations to set standards of performance, effluent standards, pretreatment standards, treatment standards, toxic pollutant standards and limitations, effluent limitations, effluent prohibitions, and quantitative limitations or concentrations which shall in all respects conform with and meet the requirements of the National Pollutant Discharge Elimination System in the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

(21)(a) The council shall adopt and promulgate rules and regulations requiring all new or renewal permit or license applicants regulated under the Environmental Protection Act, the Integrated Solid Waste Management Act, or the Livestock Waste Management Act to establish proof of financial responsibility by providing funds in the event of abandonment, default, or other inability of the permittee or licensee to meet the requirements of its permit or license or other conditions imposed by the department pursuant to the acts. The council may exempt classes of permittees or licensees from the requirements of this subdivision when a finding is made that such exemption will not result in a significant risk to the public health and welfare.

(b) Proof of financial responsibility shall include any of the following made payable to or held in trust for the benefit of the state and approved by the department:

(i) A surety bond executed by the applicant and a corporate surety licensed to do business in this state;

(ii) A deposit of cash, negotiable bonds of the United States or the state, negotiable certificates of deposit, or an irrevocable letter of credit of any bank or other savings institution organized or transacting business in the United States in an amount or which has a market value equal to or greater than the amount of the bonds required for the bonded area under the same terms and conditions upon which surety bonds are deposited;

(iii) An established escrow account; or

(iv) A bond of the applicant without separate surety upon a satisfactory demonstration to the director that such applicant has the financial means sufficient to self-bond pursuant to bonding requirements adopted by the council consistent with the purposes of this subdivision.

(c) The director shall determine the amount of the bond, deposit, or escrow account which shall be reasonable and sufficient so the department may, if the permittee or licensee is unable or unwilling to do so and in the event of forfeiture of the bond or other financial responsibility methods, arrange to

rectify any improper management technique committed during the term of the permit or license and assure the performance of duties and responsibilities required by the permit or license pursuant to law, rules, and regulations.

(d) In determining the amount of the bond or other method of financial responsibility, the director shall consider the requirements of the permit or license or any conditions specified by the department, the probable difficulty of completing the requirements of such permit, license, or conditions due to such factors as topography, geology of the site, and hydrology, and the prior history of environmental activities of the applicant.

This subsection shall apply to hazardous waste treatment, storage, or disposal facilities which have received interim status.

(22) The council shall adopt and promulgate rules and regulations no more stringent than the provisions of section 1453 et seq. of the federal Safe Drinking Water Act, as amended, 42 U.S.C. 300j-13 et seq., for public water system source water assessment programs.

The council may adopt and promulgate rules and regulations to implement a source water petition program no more stringent than section 1454 et seq. of the federal Safe Drinking Water Act, as amended, 42 U.S.C. 300j-14 et seq.

**Source:** Laws 1971, LB 939, § 5; Laws 1972, LB 1435, § 4; Laws 1973, LB 538, § 2; Laws 1974, LB 1029, § 3; Laws 1979, LB 342, § 2; Laws 1980, LB 853, § 3; Laws 1981, LB 216, § 3; Laws 1983, LB 356, § 5; Laws 1984, LB 1078, § 3; Laws 1986, LB 1008, § 2; Laws 1992, LB 1257, § 79; Laws 1993, LB 623, § 3; Laws 1994, LB 570, § 7; Laws 1994, LB 1031, § 1; Laws 1997, LB 517, § 25; Laws 1998, LB 1209, § 21; Laws 1999, LB 784, § 1; Laws 2001, LB 126, § 1; Laws 2001, LB 667, § 49; Laws 2004, LB 449, § 1; Laws 2006, LB 872, § 3; Laws 2011, LB30, § 1.

Effective date August 27, 2011.

**Cross References**

**Administrative Procedure Act**, see section 84-920.

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

**Livestock Waste Management Act**, see section 54-2416.

**81-1505.04 Annual emission fee; payment; amount; adjustment; allocation of costs; department; duties; report.**

(1)(a) The department shall collect an annual emission fee from major sources of air pollution. Each major source shall pay the emission fee for regulated pollutants in the amount of twenty-five dollars per ton per pollutant or as adjusted pursuant to this section. The fee shall be based upon the amount of emissions of each regulated pollutant as reported or estimated by the source in the previous calendar year, but fees shall not be paid on amounts in excess of four thousand tons per year for any regulated pollutant.

(b) Beginning with calendar year 2001 emissions, fees shall not be paid for a mid-sized electric generation facility on amounts in excess of four hundred tons per year for any regulated pollutant.

(c) A mid-sized electric generation facility owned by a municipality shall continue to be considered a separate mid-sized electric generation facility for purposes of this section even if the facility is subsequently permitted with another general unit larger than one hundred fifteen megawatts under separate

ownership. Each facility under separate ownership shall be considered a separate major source for purposes of this section.

(d) For purposes of this section, mid-sized electric generation facility means a facility that:

(i) Uses coal as the primary source of fuel in the facility's largest generation unit;

(ii) Has a name plate generating capacity of between seventy and one hundred fifteen megawatts in the facility's largest generation unit; and

(iii) Is not operating in a political subdivision which has been delegated the authority to enforce the air quality permit program within its jurisdiction.

(2)(a) The emission fee may be increased or decreased annually by the department by the percentage difference between the Consumer Price Index for the most recent year ending before the beginning of such year and the Consumer Price Index for the year 1989 or as required to pay all reasonable direct and indirect costs of developing and administering the air quality permit program. For purposes of this section, Consumer Price Index means the change in the price of goods and services for all urban consumers published by the United States Department of Labor at the close of the twelve-month period ending on August 31 of each year.

(b) For purposes of this section, reasonable direct and indirect costs of developing and administering the air quality permit program, as required under the federal Clean Air Act, as the act existed on May 31, 2001, 42 U.S.C. 7661a through f, include:

(i) Consideration of any associated overhead charges for personnel, equipment, buildings, and vehicles;

(ii) Reviewing and acting on any application for a permit or permit revision;

(iii) Implementing and enforcing the terms of any permit, not including any court costs or other costs associated with any formal enforcement action;

(iv) Emissions and ambient monitoring, including adequate resources to audit and inspect source-operated monitoring programs;

(v) Preparing generally applicable regulations or guidance;

(vi) Modeling, analyses, or demonstrations;

(vii) Preparing inventories and tracking emissions;

(viii) Developing and implementing any emissions trading programs as defined by the department; and

(ix) Providing support to sources under the Small Business Compliance Advisory Panel.

(c) The council shall establish procedures for the method of calculation and payment of the emission fee in a manner consistent with this section and shall establish the definition of or a table listing the pollutants which are regulated pollutants and a definition of major source. Such definitions or listing shall comply with and not be more stringent than the requirements of the federal Clean Air Act, as the act existed on May 31, 2001, 42 U.S.C. 7401 et seq.

(3) On or before January 1 of each year, the department shall submit a report to the Legislature in sufficient detail to document all direct and indirect program costs incurred in the previous fiscal year in carrying out the air quality permit program. The Appropriations Committee of the Legislature shall review

such report in its analysis of executive programs in order to verify that revenue generated from emission fees was used solely to offset appropriate and reasonable costs associated with the air quality permit program. The report shall identify costs incurred by the department to administer the permit program for each major source. In addition, the department shall identify costs incurred by primary activity not specific to a major source.

(4) The department shall administer a cost tracking system which shall show costs for each major source and costs for each primary activity that is not specific to a major source. The department shall consult with interested parties regarding identification of primary activities to be tracked by the cost tracking system.

**Source:** Laws 1992, LB 1257, § 82; Laws 1996, LB 634, § 1; Laws 2001, LB 461, § 7; Laws 2005, LB 94, § 1; Laws 2006, LB 872, § 4; Laws 2011, LB156, § 1.  
Effective date August 27, 2011.

(k) WASTEWATER TREATMENT FACILITIES  
CONSTRUCTION ASSISTANCE ACT

**81-15,147 Act, how cited.**

Sections 81-15,147 to 81-15,157 shall be known and may be cited as the Wastewater Treatment Facilities Construction Assistance Act.

**Source:** Laws 1988, LB 766, § 1; Laws 1989, LB 311, § 7; Laws 2011, LB383, § 5.  
Operative date July 1, 2011.

**81-15,158 Repealed. Laws 2011, LB 383, § 9.**

Operative date July 1, 2011.

(l) WASTE REDUCTION AND RECYCLING

**81-15,162 Fees on tires; collection; disbursement.**

(1) There is hereby imposed a fee of one dollar on each tire of every new motor vehicle, trailer, or semitrailer sold at retail in this state. Such fee shall be collected by the county treasurer at the time of registration of the motor vehicle, trailer, or semitrailer and remitted to the Department of Revenue.

(2) There is hereby imposed a fee of one dollar on every tire sold at retail in this state, including every farm tractor tire, which tires are not on a motor vehicle, trailer, or semitrailer pursuant to subsection (1) of this section. Such fee shall be collected from the purchaser by the tire retailer at the time of purchase and shall be remitted to the Department of Revenue.

(3) For purposes of this section, tire shall have the definition found in section 81-15,159.02 and shall include a pneumatic and solid tire but shall not include a recapped or regrooved tire.

(4) Subject to section 81-15,165, the fees remitted to the Department of Revenue under this section shall be remitted to the State Treasurer for credit to the Waste Reduction and Recycling Incentive Fund. Fees collected in excess of one million dollars shall be available for grants to political subdivisions under

rules and regulations adopted pursuant to subdivision (6)(b)(i) of section 13-2042.

**Source:** Laws 1990, LB 163, § 4; Laws 1994, LB 1034, § 10; Laws 1999, LB 592, § 4; Laws 2003, LB 143, § 13; Laws 2011, LB29, § 3. Effective date August 27, 2011.

**81-15,164 Collection of fees; manner.**

(1) Except as provided in subsections (2) and (3) of this section, the fees imposed by sections 81-15,159 to 81-15,165 shall be collected in the same manner as the sales tax under the Nebraska Revenue Act of 1967, including provisions of the act relating to interest, penalties, and collection procedures. No fees shall be charged for any permits under section 81-15,162, and no collection fees shall be allowed any retailer.

(2) The fees imposed by section 81-15,162 shall be due and payable to the Tax Commissioner monthly on or before the twenty-fifth day of the month next succeeding each monthly period.

(3) The fees imposed by section 81-15,163 shall be collected in the same manner as the litter fee under the Nebraska Litter Reduction and Recycling Act, including provisions of the act relating to due dates, interest, penalties, and collection procedures. No fees shall be charged for any permits, and no collection fees shall be allowed any retailer.

**Source:** Laws 1990, LB 163, § 6; Laws 1993, LB 203, § 22; Laws 1994, LB 1034, § 18; Laws 1999, LB 59, § 2; Laws 2011, LB210, § 13. Operative date October 1, 2011.

**Cross References**

Nebraska Litter Reduction and Recycling Act, see section 81-1534.  
Nebraska Revenue Act of 1967, see section 77-2701.

(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. 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. Effective date May 18, 2011.

**Cross References**

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

**81-15,175 Fund allocations; board; powers and duties; grant award to Water Resources Cash Fund; payments; legislative intent; additional grant; additional reporting.**

(1) The board may make an annual allocation each fiscal year from the Nebraska Environmental Trust Fund to the Nebraska Environmental Endowment Fund as provided in section 81-15,174.01. The board shall make annual allocations from the Nebraska Environmental Trust Fund and may make annual allocations each fiscal year from the Nebraska Environmental Endowment Fund for projects which conform to the environmental categories of the board established pursuant to section 81-15,176 and to the extent the board determines those projects to have merit. The board shall establish a calendar annually for receiving and evaluating proposals and awarding grants. To evaluate the economic, financial, and technical feasibility of proposals, the board may establish subcommittees, request or contract for assistance, or establish advisory groups. Private citizens serving on advisory groups shall be reimbursed for their actual and necessary expenses pursuant to sections 81-1174 to 81-1177.

(2) The board shall establish rating systems for ranking proposals which meet the board's environmental categories and other criteria. The rating systems shall include, but not be limited to, the following considerations:

- (a) Conformance with categories established pursuant to section 81-15,176;
- (b) Amount of funds committed from other funding sources;
- (c) Encouragement of public-private partnerships;
- (d) Geographic mix of projects over time;
- (e) Cost-effectiveness and economic impact;
- (f) Direct environmental impact;
- (g) Environmental benefit to the general public and the long-term nature of such public benefit; and
- (h) Applications recommended by the Director of Natural Resources and submitted by the Department of Natural Resources pursuant to subsection (7) of section 61-218 shall be awarded fifty priority points in the ranking process for the 2011 grant application if the Legislature has authorized annual transfers of three million three hundred thousand dollars to the Water Resources Cash Fund for each of fiscal years 2011-12 and 2012-13 and has stated its intent to transfer three million three hundred thousand dollars to the Water Resources Cash Fund in fiscal year 2013-14. Priority points shall be awarded if the proposed programs set forth in the grant application are consistent with the purposes of reducing consumptive uses of water, enhancing streamflows, recharging ground water, or supporting wildlife habitat in any river basin determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713.

(3) A grant awarded under this section pursuant to an application made under subsection (7) of section 61-218 shall be paid out in the following manner:

- (a) The initial three million three hundred thousand dollar installment shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund no later than fifteen business days after the date that the grant is approved by the board;

(b) The second three million three hundred thousand dollar installment shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund no later than May 15, 2013; and

(c) The third three million three hundred thousand dollar installment shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund no later than May 15, 2014 if the Legislature has authorized a transfer of three million three hundred thousand dollars from the General Fund to the Water Resources Cash Fund for fiscal year 2013-14.

(4) It is the intent of the Legislature that the Department of Natural Resources apply for an additional three-year grant from the Nebraska Environmental Trust Fund that would begin in fiscal year 2014-15 and such application shall be awarded fifty priority points in the ranking process as set forth in subdivision (2)(h) of this section if the following criteria are met:

(a) The Natural Resources Committee of the Legislature has examined options for water funding and has submitted a report to the Clerk of the Legislature and the Governor by December 1, 2012, setting forth:

(i) An outline and priority listing of water management and funding needs in Nebraska, including instream flows, residential, agricultural, recreational, and municipal needs, interstate obligations, water quality issues, and natural habitats preservation;

(ii) An outline of statewide funding options which create a dedicated, sustainable funding source to meet the needs set forth in the report; and

(iii) Recommendations for legislation;

(b) The projects and activities funded by the department through grants from the Nebraska Environmental Trust Fund under this section have resulted in enhanced stream flows, reduced consumptive uses of water, recharged ground water, supported wildlife habitat, or otherwise contributed towards conserving, enhancing, and restoring Nebraska's ground water and surface water resources. On or before July 1, 2014, the department shall submit a report to the Natural Resources Committee of the Legislature providing demonstrable evidence of the benefits accrued from such projects and activities; and

(c) In addition to the grant reporting requirements of the trust, on or before July 1, 2014, the department provides to the board a report which includes documentation that:

(i) Expenditures from the Water Resources Cash Fund made to natural resources districts have met the matching fund requirements provided in subdivision (5)(a) of section 61-218;

(ii) Ten percent or less of the matching fund requirements has been provided by in-kind contributions for expenses incurred for projects enumerated in the grant application. In-kind contributions shall not include land or land rights; and

(iii) All other projects and activities funded by the department through grants from the Nebraska Environmental Trust Fund under this section were matched not less than forty percent of the project or activity cost by other funding sources.

(5) The board may establish a subcommittee to rate grant applications. If the board uses a subcommittee, the meetings of such subcommittee shall be subject to the Open Meetings Act. The subcommittee shall (a) use the rating systems established by the board under subsection (2) of this section, (b) assign a

numeric value to each rating criterion, combine these values into a total score for each application, and rank the applications by the total scores, (c) recommend an amount of funding for each application, which amount may be more or less than the requested amount, and (d) submit the ranked list and recommended funding to the board for its approval or disapproval.

(6) The board may commit funds to multiyear projects, subject to available funds and appropriations. No commitment shall exceed three years without formal action by the board to renew the grant or contract. Multiyear commitments may be exempt from the rating process except for the initial application and requests to renew the commitment.

(7) The board shall adopt and promulgate rules and regulations and publish guidelines governing allocations from the fund. The board shall conduct annual reviews of existing projects for compliance with project goals and grant requirements.

(8) Every five years the board may evaluate the long-term effects of the projects it funds. The evaluation may assess a sample of such projects. The board may hire an independent consultant to conduct the evaluation and may report the evaluation findings to the Legislature and the Governor.

**Source:** Laws 1992, LB 1257, § 52; Laws 1993, LB 138, § 81; Laws 2000, LB 957, § 12; Laws 2002, LB 1003, § 51; Laws 2004, LB 832, § 2; Laws 2011, LB229, § 3; Laws 2011, LB366, § 1.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB229, section 3, with LB366, section 1, to reflect all amendments.

**Note:** Changes made by LB229 became effective May 18, 2011. Changes made by LB366 became effective August 27, 2011.

**Cross References**

**Open Meetings Act**, see section 84-1407.

**ARTICLE 16  
STATE ENERGY OFFICE**

(b) LIGHTING AND THERMAL EFFICIENCY STANDARDS

Section

- 81-1608. Uniform energy efficiency standards; legislative findings.
- 81-1609. Terms, defined.
- 81-1611. Nebraska Energy Code; adoption; alternative standards; used; when.
- 81-1614. Nebraska Energy Code; applicability.
- 81-1615. Nebraska Energy Code; exemptions.
- 81-1616. Procedures for insuring compliance with Nebraska Energy Code; costs; appeal.
- 81-1620. State Energy Office; establish technical assistance program.

(b) LIGHTING AND THERMAL EFFICIENCY STANDARDS

**81-1608 Uniform energy efficiency standards; legislative findings.**

The Legislature finds that consumers have an expectation that newly built houses or buildings they buy meet uniform energy efficiency standards. Therefore, the Legislature finds that there is a need to adopt the 2009 International Energy Conservation Code in order (1) to ensure that a minimum energy efficiency standard is maintained throughout the state, (2) to harmonize and clarify energy building code statutory references, (3) to ensure compliance with the National Energy Policy Act of 1992, (4) to increase energy savings for all Nebraska consumers, especially low-income Nebraskans, (5) to reduce the cost



of state programs that provide assistance to low-income Nebraskans, (6) to reduce the amount of money expended to import energy, (7) to reduce the growth of energy consumption, (8) to lessen the need for new power plants, and (9) to provide training for local code officials and residential and commercial builders who implement the 2009 International Energy Conservation Code.

**Source:** Laws 1980, LB 954, § 32; Laws 2004, LB 888, § 4; Laws 2011, LB329, § 4.

Effective date August 27, 2011.

**81-1609 Terms, defined.**

As used in sections 81-1608 to 81-1626, unless the context otherwise requires:

- (1) Office means the State Energy Office;
- (2) Contractor means the person or entity responsible for the overall construction of any building or the installation of any component which affects the energy efficiency of the building;
- (3) Architect or engineer means any person licensed as an architect or professional engineer under the Engineers and Architects Regulation Act;
- (4) Building means any new structure, renovated building, or addition which is used or intended for supporting or sheltering any use or occupancy, but not including any structure which has a consumption of traditional energy sources for all purposes not exceeding the energy equivalent of three and four-tenths British Thermal Units per hour or one watt per square foot;
- (5) Residential building means a building three stories or less that is used primarily as one or more dwelling units;
- (6) Renovation means alterations on an existing building which will cost more than fifty percent of the replacement cost of such building at the time work is commenced or which was not previously heated or cooled, for which a heating or cooling system is now proposed, except that the restoration of historical buildings shall not be included;
- (7) Addition means an extension or increase in the height, conditioned floor area, or conditioned volume of a building or structure;
- (8) Floor area means the total area of the floor or floors of a building, expressed in square feet, which is within the exterior faces of the shell of the structure which is heated or cooled;
- (9) Nebraska Energy Code means the 2009 International Energy Conservation Code;
- (10) Traditional energy sources means electricity, petroleum-based fuels, uranium, coal, and all nonrenewable forms of energy; and
- (11) Equivalent or equivalent code means standards that meet or exceed the requirements of the Nebraska Energy Code.

**Source:** Laws 1980, LB 954, § 33; Laws 1982, LB 799, § 6; Laws 1983, LB 124, § 10; Laws 1997, LB 622, § 126; Laws 2000, LB 1135, § 25; Laws 2004, LB 888, § 5; Laws 2011, LB329, § 5.

Effective date August 27, 2011.

**Cross References**

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

**81-1611 Nebraska Energy Code; adoption; alternative standards; used; when.**

The Legislature hereby adopts the 2009 International Energy Conservation Code as the Nebraska Energy Code. The State Energy Office may adopt regulations specifying alternative standards for building systems, techniques, equipment designs, or building materials that shall be deemed equivalent to the Nebraska Energy Code. Regulations specifying alternative standards may be deemed equivalent to the Nebraska Energy Code and may be approved for general or limited use if the use of such alternative standards would not result in energy consumption greater than would result from the strict application of the Nebraska Energy Code.

**Source:** Laws 1980, LB 954, § 35; Laws 1983, LB 124, § 12; Laws 2000, LB 1135, § 26; Laws 2004, LB 888, § 6; Laws 2011, LB329, § 6. Effective date August 27, 2011.

**81-1614 Nebraska Energy Code; applicability.**

The Nebraska Energy Code shall apply to all new buildings, or renovations of or additions to any existing buildings, on which construction is initiated on or after August 27, 2011.

**Source:** Laws 1980, LB 954, § 38; Laws 1981, LB 2, § 2; Laws 1983, LB 124, § 15; Laws 2004, LB 888, § 8; Laws 2011, LB329, § 7. Effective date August 27, 2011.

**81-1615 Nebraska Energy Code; exemptions.**

The following shall be exempt from sections 81-1608 to 81-1626:

(1) Any building which has a peak design rate of energy usage for all purposes of less than one watt, or three and four-tenths British Thermal Units per hour, per square foot of floor area;

(2) Any building which is neither heated nor cooled;

(3) Any building or portion thereof which is owned by the United States of America;

(4) Any manufactured home as defined by section 71-4603;

(5) Any modular housing unit as defined by subdivision (1) of section 71-1557; and

(6) Any building or structure (a) that is listed on the state or National Register of Historic Places, (b) that is designated as a historic property under local or state designation law or survey, (c) that is certified as a contributing resource with a National Register-listed or locally designated historic district, or (d) with an opinion or certification that the property is eligible to be listed on the state or National Register of Historic Places either individually or as a contributing building to a historic district by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places.

**Source:** Laws 1980, LB 954, § 39; Laws 1983, LB 124, § 16; Laws 1985, LB 313, § 30; Laws 2004, LB 888, § 9; Laws 2011, LB329, § 8. Effective date August 27, 2011.

**81-1616 Procedures for insuring compliance with Nebraska Energy Code; costs; appeal.**

For purposes of insuring compliance with section 81-1614:

(1) The office, or its authorized agent, may conduct such inspections and investigations as are necessary to make a determination pursuant to section 81-1625 and may issue an order containing and resulting from the findings of such inspections and investigations; and

(2) A building owner may submit a written request that the office undertake a determination pursuant to subdivision (1) of this section. Such request shall include a list of reasons why the building owner believes such a determination is necessary.

A building owner aggrieved by the office’s determination, or refusal to make such determination, may appeal such determination or refusal as provided in the Administrative Procedure Act.

The office may charge an amount sufficient to recover the costs of providing such determinations.

**Source:** Laws 1980, LB 954, § 40; Laws 1981, LB 799, § 7; Laws 1983, LB 124, § 17; Laws 2000, LB 1135, § 28; Laws 2004, LB 888, § 10; Laws 2011, LB329, § 9.  
Effective date August 27, 2011.

**Cross References**

Administrative Procedure Act, see section 84-920.

**81-1620 State Energy Office; establish technical assistance program.**

The State Energy Office shall establish a training program to provide initial technical assistance to local code officials and residential and commercial builders upon adoption and implementation of a new Nebraska Energy Code. The program shall include the training of local code officials in building technology and local enforcement procedure related to implementation of the Nebraska Energy Code and the development of training programs suitable for presentation by local governments, educational institutions, and other public or private entities. Subsequent requests for training shall be fulfilled at a fee that pays for the State Energy Office’s costs for such training.

**Source:** Laws 1980, LB 954, § 44; Laws 1983, LB 124, § 20; Laws 2004, LB 888, § 13; Laws 2011, LB329, § 10.  
Effective date August 27, 2011.

**ARTICLE 18**

**CRIME VICTIMS AND WITNESSES**

(a) CRIME VICTIM’S REPARATIONS

Section	
81-1801.	Terms, defined.
81-1801.02.	Community Trust; authorized; powers and duties; board of directors; create separate funds; distribution committee.
81-1818.	Personal injury or death; situations for which compensation is permitted.
81-1822.	Compensation; situations when not awarded.

(a) CRIME VICTIM’S REPARATIONS

**81-1801 Terms, defined.**

For purposes of the Nebraska Crime Victim’s Reparations Act, unless the context otherwise requires:

(1) Commission shall mean the Nebraska Commission on Law Enforcement and Criminal Justice;

- (2) Committee shall mean the Crime Victim's Reparations Committee;
- (3) Dependent shall mean a relative of a deceased victim who was dependent upon the victim's income at the time of death, including a child of a victim born after a victim's death;
- (4) Executive director shall mean the executive director of the commission;
- (5) Personal injury shall mean actual bodily harm;
- (6) Relative shall mean spouse, parent, grandparent, stepparent, natural born child, stepchild, adopted child, grandchild, brother, sister, half brother, half sister, or spouse's parent; and
- (7) Victim shall mean a person who is injured or killed as a result of conduct specified in section 81-1818.

**Source:** Laws 1978, LB 910, § 1; Laws 1981, LB 328, § 4; Laws 1986, LB 540, § 2; Laws 1991, LB 186, § 1; Laws 2009, LB598, § 2; Laws 2011, LB390, § 21.  
Operative date May 27, 2011.

**81-1801.02 Community Trust; authorized; powers and duties; board of directors; create separate funds; distribution committee.**

(1) A nonprofit organization, to be known as the Community Trust, may be created. After a tragedy, the Community Trust shall accept contributions from the public, manage such funds, and make distributions to help individuals, families, and communities in Nebraska that have suffered from a tragedy of violence or natural disaster. The committee shall oversee the Community Trust. The committee shall require at least annual reports from the Community Trust.

(2) The Community Trust shall be a qualified organization under section 501(c)(3) of the Internal Revenue Code thereby enabling contributions to the Community Trust to be tax deductible for the donor if the donor itemizes deductions for income tax purposes and distributions to be tax-free to the extent allowed under applicable sections of the Internal Revenue Code.

(3) The Community Trust shall be governed by a board of directors. A director may be represented by the Attorney General in the same manner as a state officer or employee under sections 81-8,239.05 and 81-8,239.06 in any civil action that arises as a result of any alleged act or omission occurring in the course and scope of the director's duties. A director shall also be indemnified for liability in the same manner as a state officer or employee under section 81-8,239.05.

(4) The Community Trust shall create a separate fund for each tragedy and shall begin accepting contributions immediately after a tragedy. The Community Trust shall report the distributions made for each tragedy to the committee, and the Community Trust shall acknowledge all contributions as soon as reasonably possible after receipt.

(5) The Community Trust may use up to ten percent of the contributions received for administrative costs of the Community Trust.

(6) The board of directors of the Community Trust shall establish procedures for receiving contributions and making distributions from the Community Trust. The board of directors shall establish a distribution committee for the tragedy within one week after the tragedy, establish eligible recipient criteria

and eligible uses of the fund, and complete all distributions as soon as reasonably possible after the tragedy.

(7) In the event that the Community Trust receives contributions for a tragedy and the volume and size of claims, along with the amount of contributions, make it impractical for the Community Trust to follow its normal procedures for the distribution of the funds, the board of directors, at its sole discretion, may elect to forward such funds, in their entirety, to another nonprofit organization that is also serving individuals who are affected by the tragedy. In such case, the Community Trust shall designate such contributions to be for the specific individuals who are affected by the tragedy.

**Source:** Laws 2009, LB598, § 1; Laws 2011, LB390, § 22.  
Operative date May 27, 2011.

**81-1818 Personal injury or death; situations for which compensation is permitted.**

The committee or hearing officer may order the payment of compensation from the Victim's Compensation Fund for personal injury or death which resulted from:

(1) An attempt on the part of the applicant to prevent the commission of crime, to apprehend a suspected criminal, to aid or attempt to aid a police officer in the performance of his or her duties, or to aid a victim of a crime; or

(2) The commission or attempt on the part of one other than the applicant of an unlawful criminal act committed or attempted in the State of Nebraska.

**Source:** Laws 1978, LB 910, § 18; Laws 1986, LB 540, § 19; Laws 2009, LB598, § 7; Laws 2011, LB390, § 23.  
Operative date May 27, 2011.

**81-1822 Compensation; situations when not awarded.**

No compensation shall be awarded from the Victim's Compensation Fund:

(1) If the victim aided or abetted the offender in the commission of the unlawful act;

(2) If the offender will receive economic benefit or unjust enrichment from the compensation;

(3) If the victim violated a criminal law of the state, which violation caused or contributed to his or her injuries or death;

(4) If the victim is injured as a result of the operation of a motor vehicle, boat, or airplane (a) unless the vehicle was used in a deliberate attempt to injure or kill the victim, (b) unless the operator is charged with a violation of section 60-6,196 or 60-6,197 or a city or village ordinance enacted in conformance with either of such sections, or (c) unless any chemical test of the operator's breath or blood indicates an alcohol concentration equal to or in excess of the limits prescribed in section 60-6,196; or

(5) If the victim incurs an economic loss which does not exceed ten percent of his or her net financial resources. For purposes of this subdivision, a victim's net financial resources shall not include the present value of future earnings and shall be determined by the committee by deducting from the victim's total financial resources:

(a) One year's earnings;

(b) The victim's equity in his or her home, not exceeding thirty thousand dollars;

(c) One motor vehicle; and

(d) Any other property which would be exempt from execution under section 25-1552 or 40-101.

Nothing in this section shall limit payments to a victim by an offender which are made as full or partial restitution of the victim's actual pecuniary loss.

**Source:** Laws 1978, LB 910, § 22; Laws 1982, LB 942, § 7; Laws 1986, LB 540, § 23; Laws 1990, LB 87, § 7; Laws 1993, LB 370, § 489; Laws 2001, LB 773, § 18; Laws 2009, LB598, § 9; Laws 2011, LB390, § 24.

Operative date May 27, 2011.

## ARTICLE 20

### NEBRASKA STATE PATROL

#### (b) RETIREMENT SYSTEM

##### Section

- 81-2014.01. Act, how cited.  
 81-2017. Retirement system; contributions; payment; funding of system.  
 81-2026. Retirement; annuity; officers; surviving spouse; children; benefit; disability or death in line of duty; benefit; maximum benefit.  
 81-2027.03. Repealed. Laws 2011, LB 509, § 55.  
 81-2027.05. Repealed. Laws 2011, LB 509, § 55.  
 81-2027.06. Repealed. Laws 2011, LB 509, § 55.  
 81-2027.07. Repealed. Laws 2011, LB 509, § 55.  
 81-2027.08. Annual benefit adjustment; cost-of-living adjustment calculation method.  
 81-2041. DROP participation authorized; requirements; fees.

#### (b) RETIREMENT SYSTEM

##### **81-2014.01 Act, how cited.**

Sections 81-2014 to 81-2041 shall be known and may be cited as the Nebraska State Patrol Retirement Act.

**Source:** Laws 1996, LB 847, § 33; Laws 1997, LB 624, § 28; Laws 1998, LB 532, § 9; Laws 1998, LB 1191, § 64; Laws 2001, LB 408, § 20; Laws 2002, LB 407, § 48; Laws 2007, LB324, § 2; Laws 2011, LB509, § 40.

Operative date July 1, 2011.

##### **81-2017 Retirement system; contributions; payment; funding of system.**

(1) Commencing July 1, 2010, and until July 1, 2011, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to sixteen percent of his or her monthly compensation. Commencing July 1, 2011, and until July 1, 2013, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to nineteen percent of his or her monthly compensation. Commencing July 1, 2013, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to sixteen percent of his or her monthly compensation. Such amounts shall be deducted monthly by the Director of Administrative Services who shall draw a warrant monthly in the amount of the total deductions from the compensation of members of the

Nebraska State Patrol in accordance with subsection (4) of this section, and the State Treasurer shall credit the amount of such warrant to the State Patrol Retirement Fund. The director shall cause a detailed report of all monthly deductions to be made each month to the board.

(2) In addition, commencing July 1, 2010, and until July 1, 2011, there shall be assessed against the appropriation of the Nebraska State Patrol a sum equal to the amount of sixteen percent of each officer's monthly compensation which shall be credited to the State Patrol Retirement Fund. Commencing July 1, 2011, and until July 1, 2013, there shall be assessed against the appropriation of the Nebraska State Patrol a sum equal to the amount of nineteen percent of each officer's monthly compensation which shall be credited to the State Patrol Retirement Fund. Commencing July 1, 2013, there shall be assessed against the appropriation of the Nebraska State Patrol a sum equal to the amount of sixteen percent of each officer's monthly compensation which shall be credited to the State Patrol Retirement Fund.

(3) For the fiscal year beginning on July 1, 2002, and each fiscal year thereafter, the actuary for the board shall perform an actuarial valuation of the system using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate, plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level payment basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. Beginning July 1, 2006, any existing unfunded liabilities shall be reinitialized and amortized over a thirty-year period, and during each subsequent actuarial valuation, changes in the funded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a thirty-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a thirty-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the Nebraska State Patrol Retirement Act, there shall be a supplemental appropriation sufficient to pay for the differences between the actuarially required contribution rate and the rate of all contributions required pursuant to the Nebraska State Patrol Retirement Act. Such valuation shall be on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board.

(4) The state shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code as defined in section 49-801.01, except that the state shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The state shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The state shall pick up these contributions by a compensation deduction

through a reduction in the cash compensation of the member. Member contributions picked up shall be treated for all purposes of the Nebraska State Patrol Retirement Act in the same manner and to the extent as member contributions made prior to the date picked up.

**Source:** Laws 1947, c. 211, § 4, p. 688; Laws 1959, c. 286, § 6, p. 1085; Laws 1965, c. 387, § 1, p. 1243; Laws 1971, LB 987, § 10; Laws 1975, LB 235, § 1; R.S.1943, (1978), § 60-444; Laws 1981, LB 462, § 5; Laws 1984, LB 218, § 4; Laws 1989, LB 506, § 14; Laws 1991, LB 549, § 49; Laws 1994, LB 833, § 36; Laws 1994, LB 1287, § 1; Laws 1995, LB 369, § 6; Laws 1995, LB 574, § 81; Laws 2001, LB 408, § 21; Laws 2002, LB 407, § 50; Laws 2004, LB 514, § 1; Laws 2005, LB 503, § 12; Laws 2006, LB 1019, § 12; Laws 2007, LB324, § 4; Laws 2009, LB188, § 7; Laws 2011, LB382, § 7.  
Effective date May 5, 2011.

**81-2026 Retirement; annuity; officers; surviving spouse; children; benefit; disability or death in line of duty; benefit; maximum benefit.**

(1)(a) Any officer qualified for an annuity as provided in section 81-2025 for reasons other than disability shall be entitled to receive a monthly annuity for the remainder of the officer's life. The annuity payments shall continue until the end of the calendar month in which the officer dies. The amount of the annuity shall be a percentage of the officer's final average monthly compensation. For retirement on or after the fifty-fifth birthday of the member or on or after the fiftieth birthday of a member who has been in the employ of the state for twenty-five years, as calculated in section 81-2033, the percentage shall be three percent multiplied by the number of years of creditable service, as calculated in section 81-2033, except that the percentage shall never be greater than seventy-five percent.

(b) For retirement pursuant to subsection (2) of section 81-2025 on or after the fiftieth birthday of the member but prior to the fifty-fifth birthday of the member who has been in the employ of the state for less than twenty-five years, as calculated in section 81-2033, the annuity which would apply if the member were age fifty-five at the date of retirement shall be reduced by five-ninths of one percent for each month by which the early retirement date precedes age fifty-five or for each month by which the early retirement date precedes the date upon which the member has served for twenty-five years, whichever is earlier. Any officer who has completed thirty years of creditable service with the Nebraska State Patrol shall have retirement benefits computed as if the officer had reached age fifty-five.

(c) For purposes of this computation, final average monthly compensation shall mean the sum of the officer's total compensation during the three twelve-month periods of service as an officer in which compensation was the greatest divided by thirty-six, and for any officer employed on or before January 4, 1979, the officer's total compensation shall include payments received for unused vacation and sick leave accumulated during the final three years of service.

(2) Any officer qualified for an annuity as provided in section 81-2025 for reasons of disability shall be entitled to receive a monthly annuity for the remainder of the period of disablement as provided in sections 81-2028 to 81-2030. The amount of the annuity shall be fifty percent of the officer's



monthly compensation at the date of disablement if the officer has completed seventeen or fewer years of creditable service. If the officer has completed more than seventeen years of creditable service, the amount of the annuity shall be three percent of the final monthly compensation at the date of disablement multiplied by the total years of creditable service but not to exceed seventy-five percent of the final average monthly compensation as defined in subsection (1) of this section. The date of disablement shall be the date on which the benefits as provided in section 81-2028 have been exhausted.

(3) Upon the death of an officer after retirement for reasons other than disability, benefits shall be provided as a percentage of the amount of the officer's annuity, calculated as follows:

(a) If there is a surviving spouse but no dependent child or children of the officer under nineteen years of age, the surviving spouse shall receive a benefit equal to seventy-five percent of the amount of the officer's annuity for the remainder of the surviving spouse's life;

(b) If there is a surviving spouse and the surviving spouse has in his or her care a dependent child or children of the officer under nineteen years of age and there is no other dependent child or children of the officer not in the care of the surviving spouse under nineteen years of age, the benefit shall be equal to one hundred percent of the officer's annuity. When there is no remaining dependent child of the officer under nineteen years of age, the benefit shall be seventy-five percent of the amount of the officer's annuity to the surviving spouse for the remainder of the surviving spouse's life;

(c) If there is a surviving spouse and the surviving spouse has in his or her care a dependent child or children of the officer under nineteen years of age or there is another dependent child or children of the officer under nineteen years of age not in the care of the surviving spouse, the benefit shall be twenty-five percent of the amount of the officer's annuity to the surviving spouse and seventy-five percent of the amount of the officer's annuity to the dependent children of the officer under nineteen years of age to be divided equally among such dependent children but in no case shall the benefit received by a surviving spouse and dependent children residing with such spouse be less than fifty percent of the amount of the officer's annuity. At such time as any dependent child of the officer attains nineteen years of age, the benefit shall be divided equally among the remaining dependent children of the officer who have not yet attained nineteen years of age. When there is no remaining dependent child of the officer under nineteen years of age, the benefit shall be seventy-five percent of the amount of the officer's annuity to the surviving spouse for the remainder of the surviving spouse's life;

(d) If there is no surviving spouse and a dependent child or children of the officer under nineteen years of age, the benefit shall be equal to seventy-five percent of the officer's annuity to the dependent children of the officer under nineteen years of age to be divided equally among such dependent children. At such time as any dependent child of the officer attains nineteen years of age, the benefit shall be divided equally among the remaining dependent children of the officer who have not yet attained nineteen years of age; and

(e) If there is no surviving spouse or no dependent child or children of the officer under nineteen years of age, the amount of benefit such officer has received under the Nebraska State Patrol Retirement Act shall be computed. If such amount is less than the contributions to the State Patrol Retirement Fund

made by such officer, plus regular interest, the difference shall be paid to the officer's designated beneficiary or estate.

(4) Upon the death of an officer after retirement for reasons of disability, benefits shall be provided as if the officer had retired for reasons other than disability.

(5) Upon the death of an officer before retirement, benefits shall be provided as if the officer had retired for reasons of disability on the date of such officer's death, calculated as follows:

(a) If there is a surviving spouse but no dependent child or children of the officer under nineteen years of age, the surviving spouse shall receive a benefit equal to seventy-five percent of the amount of the officer's annuity for the remainder of the surviving spouse's life;

(b) If there is a surviving spouse and the surviving spouse has in his or her care a dependent child or children of the officer under nineteen years of age and there is no other dependent child or children of the officer not in the care of the surviving spouse under nineteen years of age, the benefit shall be equal to one hundred percent of the officer's annuity. When there is no remaining dependent child of the officer under nineteen years of age, the benefit shall be seventy-five percent of the amount of the officer's annuity to the surviving spouse for the remainder of the surviving spouse's life;

(c) If there is a surviving spouse and the surviving spouse has in his or her care a dependent child or children of the officer under nineteen years of age or there is another dependent child or children of the officer under nineteen years of age not in the care of the surviving spouse, the benefit shall be twenty-five percent of the amount of the officer's annuity to the surviving spouse and seventy-five percent of the amount of the officer's annuity to the dependent children of the officer under nineteen years of age to be divided equally among such dependent children but in no case shall the benefit received by a surviving spouse and dependent children residing with such spouse be less than fifty percent of the amount of the officer's annuity. At such time as any dependent child of the officer attains nineteen years of age, the benefit shall be divided equally among the remaining dependent children of the officer who have not yet attained nineteen years of age. When there is no remaining dependent child of the officer under nineteen years of age, the benefit shall be seventy-five percent of the amount of the officer's annuity to the surviving spouse for the remainder of the surviving spouse's life;

(d) If there is no surviving spouse and a dependent child or children of the officer under nineteen years of age, the benefit shall be equal to seventy-five percent of the officer's annuity to the dependent children of the officer under nineteen years of age to be divided equally among such dependent children. At such time as any dependent child of the officer attains nineteen years of age, the benefit shall be divided equally among the remaining dependent children of the officer who have not yet attained nineteen years of age; and

(e) If no benefits are paid to a surviving spouse or dependent child or children of the officer, benefits will be paid as described in subsection (1) of section 81-2031.

(6) Any changes made to this section by Laws 2004, LB 1097, shall apply only to retirements, disabilities, and deaths occurring on or after July 16, 2004.

**Source:** Laws 1953, c. 333, § 2, p. 1093; Laws 1957, c. 276, § 1, p. 1004; Laws 1959, c. 296, § 1, p. 1104; Laws 1961, c. 307, § 6, p. 973;

Laws 1965, c. 386, § 2, p. 1241; Laws 1969, c. 510, § 4, p. 2090; Laws 1969, c. 511, § 8, p. 2095; Laws 1974, LB 1004, § 1; Laws 1975, LB 235, § 3; Laws 1976, LB 644, § 1; Laws 1977, LB 347, § 1; Laws 1979, LB 80, § 107; R.S.Supp.,1980, § 60-452.01; Laws 1981, LB 462, § 6; Laws 1986, LB 311, § 26; Laws 1987, LB 493, § 1; Laws 1989, LB 506, § 16; Laws 1990, LB 953, § 2; Laws 1991, LB 549, § 55; Laws 1993, LB 724, § 16; Laws 1994, LB 833, § 41; Laws 1994, LB 1306, § 6; Laws 1996, LB 847, § 37; Laws 1996, LB 1273, § 28; Laws 1997, LB 623, § 36; Laws 1997, LB 624, § 31; Laws 2004, LB 1097, § 30; Laws 2006, LB 1019, § 13; Laws 2011, LB509, § 42.

Operative date July 1, 2011.

**81-2027.03 Repealed. Laws 2011, LB 509, § 55.**

Operative date July 1, 2011.

**81-2027.05 Repealed. Laws 2011, LB 509, § 55.**

Operative date July 1, 2011.

**81-2027.06 Repealed. Laws 2011, LB 509, § 55.**

Operative date July 1, 2011.

**81-2027.07 Repealed. Laws 2011, LB 509, § 55.**

Operative date July 1, 2011.

**81-2027.08 Annual benefit adjustment; cost-of-living adjustment calculation method.**

(1) Beginning July 1, 2011, and each July 1 thereafter, the board shall determine the number of retired members or beneficiaries described in subdivision (4)(b) of this section in the retirement system and an annual benefit adjustment shall be made by the board for each retired member or beneficiary under one of the cost-of-living adjustment calculation methods found in subsection (2), (3), or (4) of this section. Each retired member or beneficiary, if eligible, shall receive an annual benefit adjustment under the cost-of-living adjustment calculation method that provides the retired member or beneficiary the greatest annual benefit adjustment increase. No retired member or beneficiary shall receive an annual benefit adjustment under more than one of the cost-of-living adjustment calculation methods provided in this section.

(2) The current benefit paid to a retired member or beneficiary under this subsection shall be adjusted so that the purchasing power of the benefit being paid is not less than sixty percent of the purchasing power of the initial benefit. The purchasing power of the initial benefit in any year following the year in which the initial benefit commenced shall be calculated by dividing the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers factor on June 30 of the current year by the Consumer Price Index for Urban Wage Earners and Clerical Workers factor on June 30 of the year in which the benefit commenced. The result shall be multiplied by the product that results when the amount of the initial benefit is multiplied by sixty percent. In any year in which applying the

adjustment provided in subsection (3) of this section results in a benefit which would be less than sixty percent of the purchasing power of the initial benefit as calculated in this subsection, the adjustment shall instead be equal to the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers factor from the prior year to the current year.

(3) The current benefit paid to a retired member or beneficiary under this subsection shall be increased annually by the lesser of (i) the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between June 30 of the prior year to June 30 of the present year or (ii) two and one-half percent.

(4)(a) The current benefit paid to a retired member or beneficiary under this subsection shall be calculated by multiplying the retired member's or beneficiary's total monthly benefit by the lesser of (i) the cumulative change in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the last adjustment of the total monthly benefit of each retired member or beneficiary through June 30 of the year for which the annual benefit adjustment is being calculated or (ii) an amount equal to three percent per annum compounded for the period from the last adjustment of the total monthly benefit of each retired member or beneficiary through June 30 of the year for which the annual benefit adjustment is being calculated.

(b) In order for a retired member or beneficiary to receive the cost-of-living adjustment calculation method in this subsection, the retired member or beneficiary shall be (i) a retired member or beneficiary who has been receiving a retirement benefit for at least five years if the member had at least twenty-five years of creditable service, (ii) a member who has been receiving a disability retirement benefit for at least five years pursuant to section 81-2025, or (iii) a beneficiary who has been receiving a death benefit pursuant to section 81-2026 for at least five years, if the member's or beneficiary's monthly accrual rate is less than or equal to the minimum accrual rate as determined by this subsection.

(c) The monthly accrual rate under this subsection is the retired member's or beneficiary's total monthly benefit divided by the number of years of creditable service earned by the retired or deceased member.

(d) The total monthly benefit under this subsection is the total benefit received by a retired member or beneficiary pursuant to the Nebraska State Patrol Retirement Act and previous adjustments made pursuant to this section or any other provision of the act that grants a benefit or cost-of-living increase, but the total monthly benefit shall not include sums received by an eligible retired member or eligible beneficiary from federal sources.

(e) The minimum accrual rate under this subsection is thirty-eight dollars and eighty-four cents until adjusted pursuant to this subsection. Beginning July 1, 2011, the board shall annually adjust the minimum accrual rate to reflect the cumulative percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the last adjustment of the minimum accrual rate.

(5) Beginning July 1, 2011, and each July 1 thereafter, each retired member or beneficiary shall receive the sum of the annual benefit adjustment and such retiree's total monthly benefit less withholding, which sum shall be the retired member's or beneficiary's adjusted total monthly benefit. Each retired member or beneficiary shall receive the adjusted total monthly benefit until the expira-

tion of the annuity option selected by the member or until the retired member or beneficiary again qualifies for the annual benefit adjustment, whichever occurs first.

(6) The annual benefit adjustment pursuant to this section shall not cause a current benefit to be reduced, and a retired member or beneficiary shall never receive less than the adjusted total monthly benefit until the annuity option selected by the member expires.

(7) The board shall adjust the annual benefit adjustment provided in this section so that the cost-of-living adjustment provided to the retired member or beneficiary at the time of the annual benefit adjustment does not exceed the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board which shall be a reasonable representative measurement of the cost-of-living for retired employees.

(8) The state shall contribute to the State Patrol Retirement Fund an annual level dollar payment certified by the board. For the 2011-12 fiscal year through the 2012-13 fiscal year, the annual level dollar payment certified by the board shall equal 3.04888 percent of six million eight hundred ninety-five thousand dollars.

**Source:** Laws 2011, LB509, § 41.  
Operative date July 1, 2011.

**81-2041 DROP participation authorized; requirements; fees.**

(1) Any member who meets the participation requirements of subsection (2) of this section may participate in DROP. DROP provides that subsequent to attaining normal age and service retirement eligibility, a member may voluntarily choose to participate in DROP upon its adoption which, for purposes of this section, shall be the earlier of September 1, 2008, or the first of the month following a favorable letter determination by the Internal Revenue Service. If the member chooses to participate in DROP, the member shall be deemed to have retired, but the member may continue in active employment for up to a five-year period. During the DROP period, the member's retirement benefit payments shall be deposited into the DROP account for the benefit of the member until the member actually retires from active employment at or before the expiration of the DROP period. Thereafter, future retirement benefit payments shall be made directly to the member, and the member shall have access to all funds in the DROP account designated for the benefit of the member.

(2) To participate in the DROP program, a member shall meet the following requirements:

(a) A member shall be eligible to enter DROP at any time subsequent to the date when the member has (i) attained normal retirement age and (ii) completed twenty-five years of service. Members having attained normal retirement age and completed twenty-five years of service on or before the date of adoption of DROP shall be eligible to enter DROP at any future date;

(b) A member who elects to enter DROP shall be entitled to receive regular age and service retirement benefits in accordance with section 81-2026. A member is entitled to remain in DROP for a maximum of five years subsequent

to the date of the member's DROP election. A member may separate from service and thereby exit DROP at any time during the DROP period. On or before the completion of the DROP period, the member must separate from active employment and exit DROP. During the DROP period, a member's retirement benefit shall be payable to the DROP account vendor designated in the member's name. Amounts transferred or paid to a participating member's DROP account shall not constitute annual additions under section 415 of the Internal Revenue Code;

(c) A member electing to enter DROP shall choose an annuity payment option. After the option is chosen, the member shall not be entitled to any retirement benefit changes, for reasons including, but not limited to, wage increases, promotions, and demotions, except that the restriction on retirement benefit changes shall not apply in the event of duty-related death or duty-related disability. The benefit amount shall be fixed as of the date of election and shall be payable as if the employee retired on that date and separated from active employment. Upon the death of a member during the DROP period, monthly benefits shall be provided as a percentage of the amount of the member's annuity as set forth in subsection (3) of section 81-2026 based upon the annuity benefit calculation made at commencement of the DROP period. In addition, the balance of the DROP account, if any, shall be provided to the beneficiary or beneficiaries of the member or, if no beneficiary is provided, to the estate of the member. Upon the disability of a member during the DROP period, the member shall be deemed to have completed the DROP period, shall begin receiving the annuity benefit as calculated at the commencement of the DROP period, and shall be paid the balance of the DROP account, if any;

(d) No member shall be allowed to continue making the required contributions while the member is enrolled in DROP;

(e) During the DROP period, the Nebraska State Patrol shall not be assessed the amount required under subsection (2) of section 81-2017 nor shall such amount be credited to the State Patrol Retirement Fund;

(f) The member shall be paid the balance of the DROP account upon the member's separation from active employment or at the expiration of the DROP period thereby ending the member's participation in DROP. If a member has not voluntarily separated from active employment on or before the completion of the DROP period, the member's retirement benefit shall be paid directly to the member thereby ending the member's active employment. The member's DROP account shall consist of accrued retirement benefits and interest on such benefits;

(g) Any member that is enrolled in DROP shall be responsible for directing the DROP account designated for the benefit of the member by investing the account in any DROP investment options. There shall be no guaranteed rate of investment return on DROP account assets. Any losses, charges, or expenses incurred by the participating DROP member in such member's DROP account by virtue of the investment options selected by the participating DROP member shall not be made up by the retirement system but all of the same shall be born by the participating DROP member. The retirement system, the state, the board, and the state investment officer shall not be responsible for any investment results under the DROP agreement. Transfers between investment options shall be in accordance with the rules and regulations of DROP. A DROP account shall be established for each participating DROP member. Such DROP account

shall be adjusted no less frequently than annually for the member's retirement benefit distributions and net investment earnings and losses;

(h) If the DROP account is subject to administrative or other fees or charges, such fees or charges shall be charged to the participating DROP member's DROP account; and

(i) Cost-of-living adjustments as provided for in section 81-2027.08 shall not be applied to retirement benefits during the DROP period.

**Source:** Laws 2007, LB324, § 3; Laws 2011, LB509, § 43.  
Operative date July 1, 2011.

## ARTICLE 21

### STATE ELECTRICAL DIVISION

Section

81-2104. State Electrical Board; powers enumerated.

#### **81-2104 State Electrical Board; powers enumerated.**

The board shall have power to:

- (1) Elect its own officers;
- (2) Engage and fix the compensation of such officers, inspectors, and employees as may be required in the performance of its duties;
- (3) Pay such other expenses as may be necessary in the performance of its duties;
- (4) Provide upon request such additional voluntary inspections and reviews as it deems appropriate;
- (5) Adopt, promulgate, and revise rules and regulations necessary to enable it to carry into effect the State Electrical Act. In adopting and promulgating such rules and regulations, the board shall be governed by the minimum standards set forth in the National Electrical Code issued and adopted by the National Fire Protection Association in 2011, Publication Number 70-2011, which code shall be filed in the offices of the Secretary of State and the board and shall be a public record. The board shall adopt and promulgate rules and regulations establishing wiring standards that protect public safety and health and property and that apply to all electrical wiring which is installed subject to the State Electrical Act;
- (6) Revoke, suspend, or refuse to renew any license or registration granted pursuant to the State Electrical Act when the licensee or registrant (a) violates any provision of the National Electrical Code as adopted pursuant to subdivision (5) of this section, the act, or any rule or regulation adopted and promulgated pursuant to the act, (b) fails or refuses to pay any examination, registration, or license renewal fee required by law, (c) is an electrical contractor or master electrician and fails or refuses to provide and keep in force a public liability insurance policy as required by the board, or (d) violates any political subdivision's approved inspection ordinances;
- (7) Order disconnection of power to any electrical installation that is proximately dangerous to health and property;
- (8) Order removal of electrical wiring and apparatus from premises when such wiring and apparatus is proximately dangerous to health and property;

(9) Investigate, for the purpose of identifying dangerous electrical wiring or violations of the National Electrical Code as adopted pursuant to subdivision (5) of this section, any death by electrocution that occurs within the State of Nebraska;

(10) Refuse to renew any license granted pursuant to the act when the licensee fails to submit evidence of completing the continuing education requirements under section 81-2117.01;

(11) Provide for the amount and collection of fees for inspection and other services;

(12) Adopt a seal, and the executive secretary shall have the care and custody thereof; and

(13) Enforce the provisions of the National Electrical Code as adopted pursuant to subdivision (5) of this section.

**Source:** Laws 1975, LB 525, § 5; Laws 1978, LB 906, § 1; Laws 1978, LB 833, § 3; Laws 1981, LB 77, § 1; R.S.Supp.,1981, § 81-575; Laws 1984, LB 946, § 1; Laws 1987, LB 69, § 1; Laws 1990, LB 863, § 1; Laws 1993, LB 215, § 2; Laws 1993, LB 193, § 4; Laws 1993, LB 192, § 1; Laws 1996, LB 933, § 1; Laws 1999, LB 91, § 1; Laws 2002, LB 873, § 1; Laws 2003, LB 126, § 4; Laws 2005, LB 201, § 1; Laws 2010, LB411, § 1; Laws 2011, LB56, § 1.

Effective date August 27, 2011.

### ARTICLE 31

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

Section

81-3120. Petty cash funds authorized.

#### **81-3120 Petty cash funds authorized.**

The chief executive officer of the Department of Health and Human Services may request that petty cash funds be created at specific locations which may be used for fees and costs related to the prosecution of support establishment, modification, and enforcement cases, including, but not limited to, court costs, filing fees, service of process fees, sheriff's costs, garnishment and execution fees, court reporter and transcription costs, costs related to appeals, witness and expert witness fees, and fees or costs for obtaining necessary documents. The petty cash funds shall be created and administered as provided in section 81-104.01, except that the amount in each petty cash fund shall not be less than twenty-five dollars nor more than two thousand dollars.

**Source:** Laws 2007, LB296, § 11; Laws 2011, LB265, § 1.

Effective date August 27, 2011.

### ARTICLE 34

#### ENGINEERS AND ARCHITECTS REGULATION ACT

Section

81-3401. Act, how cited.

81-3403. Definitions, where found.

81-3405.01. Building official, defined.

81-3422.01. Project, defined.



Section	
81-3429.	Board; members; requirements; per diem; expenses.
81-3441.	Use of title; unlawful practice.
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81-3445.	State and political subdivisions; construction projects.
81-3446.	Construction projects on private lands; owner; duties.
81-3448.	Architect; license; application; fee; requirements; examination; issuance.
81-3449.	Practice of architecture; exempted activities.
81-3451.	Professional engineer or engineer-intern; license; application; examination; requirements.
81-3452.	Engineering examinations; board; procedure.
81-3453.	Practice of engineering; exempted activities.

**81-3401 Act, how cited.**

Sections 81-3401 to 81-3455 shall be known and may be cited as the Engineers and Architects Regulation Act.

**Source:** Laws 1997, LB 622, § 1; Laws 2009, LB446, § 1; Laws 2011, LB45, § 2.  
Effective date August 27, 2011.

**81-3403 Definitions, where found.**

For purposes of the Engineers and Architects Regulation Act, the definitions found in sections 81-3404 to 81-3427 shall be used.

**Source:** Laws 1997, LB 622, § 3; Laws 2011, LB45, § 3.  
Effective date August 27, 2011.

**81-3405.01 Building official, defined.**

Building official means the person appointed by the state or political subdivision having jurisdiction over the project to have principal responsibility for the safety of the project as completed.

**Source:** Laws 2011, LB45, § 4.  
Effective date August 27, 2011.

**81-3422.01 Project, defined.**

Project means the construction, enlargement, or alteration of works involving the practice of architecture or engineering other than those exempted by sections 81-3449 and 81-3453.

**Source:** Laws 2011, LB45, § 5.  
Effective date August 27, 2011.

**81-3429 Board; members; requirements; per diem; expenses.**

Each member of the board shall be a citizen of the United States and a resident of the State of Nebraska for at least one year immediately preceding appointment. Each professional member shall have been engaged in the active practice of the design profession for at least ten years, shall have had responsible charge of work for at least five years at the time of his or her appointment, and shall be licensed in the appropriate profession. Each member of the board shall receive as compensation not more than sixty dollars per day for each day or substantial portion of a day actually spent in traveling to and from and while

attending sessions of the board and its committees, authorized meetings of the National Council of Architectural Registration Boards, the National Council of Examiners for Engineering and Surveying, or their subdivisions or committees, or other business as authorized by the board and all necessary expenses incident to the performance of his or her duties under the Engineers and Architects Regulation Act as provided in sections 81-1174 to 81-1177.

**Source:** Laws 1997, LB 622, § 29; Laws 2011, LB45, § 6.  
Effective date August 27, 2011.

**81-3441 Use of title; unlawful practice.**

Except as provided in sections 81-3413 to 81-3415, 81-3449, and 81-3453, an individual shall not directly or indirectly engage in the practice of architecture or engineering in the state or use the title architect or professional engineer or display or use any words, letters, figures, titles, sign, card, advertisement, or other symbol or device indicating or tending to indicate that he or she is an architect or professional engineer or is practicing architecture or engineering unless he or she is licensed under the Engineers and Architects Regulation Act. A licensee shall not aid or abet any person not licensed under the act in the practice of architecture or engineering.

**Source:** Laws 1997, LB 622, § 41; Laws 2011, LB45, § 7.  
Effective date August 27, 2011.

**81-3442 Prohibited acts; penalties.**

Any person who performs any of the following actions is guilty of a Class I misdemeanor for the first offense and a Class IV felony for the second or any subsequent offense:

- (1) Practices or offers to practice architecture or engineering in this state without being licensed in accordance with the Engineers and Architects Regulation Act unless such practice or offer to practice is otherwise exempt under the act;
- (2) Knowingly and intentionally employs or retains a person to practice architecture or engineering in this state who is not licensed in accordance with the act except as provided in sections 81-3413 to 81-3415 and who is not exempted by sections 81-3449 and 81-3453;
- (3) Uses the words architect, engineer, or any modification or derivative of such words in its name or form of business activity except as authorized in the act or in the Professional Landscape Architects Act;
- (4) Presents or attempts to use the certificate of licensure or the seal of another person;
- (5) Gives any false or forged evidence of any kind to the board or to any member of the board in obtaining or attempting to obtain a certificate;
- (6) Falsely impersonates any other licensee of like or different name;
- (7) Attempts to use an expired, suspended, revoked, or nonexistent certificate of licensure or who practices or offers to practice when not qualified;
- (8) Falsely claims that he or she is licensed or authorized under the act; or
- (9) Violates the act.

**Source:** Laws 1997, LB 622, § 42; Laws 2011, LB45, § 8.  
Effective date August 27, 2011.

## Cross References

Professional Landscape Architects Act, see section 81-8,208.

**81-3443 Enforcement procedures.**

A complaint against any person or organization involving any matter coming within the jurisdiction of the board shall be in writing and shall be filed with the board. The complaint, at the discretion of the board, shall be heard within a reasonable time in accordance with the rules and regulations and may be heard through the use of a hearing officer. The accused shall have the right to appear personally with or without counsel, to cross-examine adverse witnesses, and to produce evidence and witnesses in his, her, or its defense. The board shall set the time and place for the hearing and shall cause a copy of the complaint, together with a notice of the time and place fixed for the hearing, to be sent by registered mail to the accused, at his, her, or its last-known business or residence address known to the board, at least thirty days before the hearing. If after the hearing the board finds the accused has violated the Engineers and Architects Regulation Act or any rules or regulations, it may issue any order or take any action described in section 81-3444. If the board finds no violation, it shall enter an order dismissing the complaint. If the order revokes, suspends, or cancels a license, the board shall notify, in writing, the Secretary of State and the clerk of the city or village in the state where the person or organization has a place of business, if any. The board may reissue a license that has been revoked. Application for the reissuance of a license shall be made in such a manner as the board directs and shall be accompanied by a fee established by the board.

**Source:** Laws 1997, LB 622, § 43; Laws 2011, LB45, § 9.  
Effective date August 27, 2011.

**81-3444 Disciplinary actions authorized; civil penalties.**

(1) The board may after hearing, by majority vote, take any or all of the following actions, upon proof satisfactory to the board that any person or organization has violated the Engineers and Architects Regulation Act or any rules or regulations. Upon a finding that a person or organization has committed a violation, the following actions may be taken against such person or organization upon a two-thirds majority vote of the board:

- (a) Issuance of censure or reprimand;
- (b) Suspension of judgment;
- (c) Placement of the offender on probation;
- (d) Placement of a limitation or limitations on the holder of a license and upon the right of the holder of a license to practice the profession to such extent, scope, or type of practice for such time and under such conditions as are found necessary and proper;
- (e) Imposition of a civil penalty not to exceed ten thousand dollars for each offense. The amount of the penalty shall be based on the severity of the violation;
- (f) Entrance of an order of revocation, suspension, or cancellation of the certificate of licensure;
- (g) Issuance of a cease and desist order;

(h) Imposition of costs as in an ordinary civil action in the district court, which may include reasonable attorney's fees and hearing officer fees incurred by the board and the expenses of any investigation undertaken by the board; or

(i) Dismissal of the action.

(2) In hearings under this section, the board may take into account suitable evidence of reform.

(3) Civil penalties collected under subdivision (1)(e) of this section shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. All costs collected under subdivision (1)(h) of this section shall be remitted to the State Treasurer for credit to the Engineers and Architects Regulation Fund.

**Source:** Laws 1997, LB 622, § 44; Laws 2011, LB45, § 10.  
Effective date August 27, 2011.

**81-3445 State and political subdivisions; construction projects.**

Except as otherwise provided in this section and sections 81-3449 and 81-3453, the state and its political subdivisions shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer. This section shall not apply to any public work in which the contemplated expenditure for the complete project does not exceed one hundred thousand dollars. The board shall adjust the dollar amount in this section every fifth year. The first such adjustment after August 27, 2011, shall be effective on July 1, 2014. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount.

**Source:** Laws 1997, LB 622, § 45; Laws 1999, LB 253, § 2; Laws 2004, LB 599, § 2; Laws 2011, LB45, § 11.  
Effective date August 27, 2011.

**81-3446 Construction projects on private lands; owner; duties.**

(1) The owner of any real property who allows a project to be constructed on his or her real property is engaged in the practice of architecture or engineering unless he or she employs or causes others to employ licensed professionals or persons under the direct supervision of licensed professionals to furnish at least minimum construction phase services with respect to the project or is exempt from the Engineers and Architects Regulation Act under sections 81-3449 and 81-3453.

(2) For purposes of this section:

(a) Construction phase service includes at least the following services: (i) Visiting the project site on a regular basis as is necessary to determine that the work is proceeding generally in accordance with the technical submissions submitted to the building official at the time the project permit was issued; and (ii) processing technical submissions required of the contractor by the terms of

contract documents. The term does not include supervision of construction, review of payment applications, resolution of disputes between the owner and contractor, and other such items which are considered additional construction administration services which the owner may or may not elect to include in the architect's or engineer's scope of work; and

(b) Owner means with respect to any real property the following persons: (i) The record owner of such real property; (ii) the lessee of all or any portion of the real property when the lease covers all of that portion of the real property upon which the project is being constructed, the lessee has significant approval rights with respect to the project, and the lease, at the time the project begins, has a remaining term of not less than ten years; or (iii) the grantee of an easement granting right-of-way to construct the project.

**Source:** Laws 1997, LB 622, § 46; Laws 2011, LB45, § 12.  
Effective date August 27, 2011.

**81-3448 Architect; license; application; fee; requirements; examination; issuance.**

(1) A person applying to the Board of Engineers and Architects for initial licensure as an architect shall submit an application accompanied by the fee established by the board and satisfactory evidence that he or she holds a degree in architecture accredited by the National Architectural Accrediting Board and that he or she has completed practical training in architectural work as required by the Board of Engineers and Architects. If an applicant is qualified, the Board of Engineers and Architects shall, by means of a written or electronic examination, examine the applicant on technical and professional subjects as prescribed by the board. None of the examination materials shall be considered public records. The board may exempt from the written examination an applicant who holds a certification issued by the National Council of Architectural Registration Boards. The Board of Engineers and Architects may adopt guidelines published from time to time by the National Council of Architectural Registration Boards. The Board of Engineers and Architects may also adopt the examinations and grading procedures of the National Council of Architectural Registration Boards and the accreditation decisions of the National Architectural Accrediting Board. The Board of Engineers and Architects shall issue a certificate of licensure to each applicant who is found to be of good moral character and who satisfies the requirements set forth in this section. Licensure shall be effective upon issuance.

(2) A person applying for initial licensure who does not hold a degree in architecture accredited by the National Architectural Accrediting Board shall submit an application accompanied by the fee established by the Board of Engineers and Architects. The application shall demonstrate satisfactory evidence of twelve years' combined architectural education and architectural work experience, including the equivalent of the Intern Development Program promulgated by the National Council of Architectural Registration Boards. If an applicant is determined by the Board of Engineers and Architects to meet this requirement, the board shall, by means of a written or electronic examination, examine the applicant on technical and professional subjects as prescribed by the board. Only an individual who has earned a bachelor of science in

architectural studies degree with an architecture emphasis prior to December 31, 1999, may be considered under this subsection.

**Source:** Laws 1997, LB 622, § 48; Laws 2011, LB45, § 13.  
Effective date August 27, 2011.

**81-3449 Practice of architecture; exempted activities.**

The provisions of the Engineers and Architects Regulation Act regulating the practice of architecture do not apply to the following activities:

(1) The construction, remodeling, alteration, or renovation of a detached single-family through four-family dwelling of less than five thousand square feet of above grade finished space. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(2) The construction, remodeling, alteration, or renovation of a one-story commercial or industrial building or structure of less than five thousand square feet of above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the building or structure are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(3) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage, if the structures are designed to be occupied by no more than twenty persons. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(4) Any public works project with contemplated expenditures for a completed project that do not exceed one hundred thousand dollars. The board shall adjust the dollar amount in this subdivision every fifth year. The first such adjustment after August 27, 2011, shall be effective on July 1, 2014. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount;

(5) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(6) The teaching, including research and service, of architectural subjects in a college or university offering a degree in architecture accredited by the National Architectural Accrediting Board;

(7) The preparation of submissions to architects, building officials, or other regulating authorities by the manufacturer, supplier, or installer of any materials, assemblies, components, or equipment that describe or illustrate the use of such items, the preparation of any details or shop drawings required of the contractor by the terms of the construction documents, or the management of construction contracts by persons customarily engaged in contracting work;

(8) The preparation of technical submissions or the administration of construction contracts by employees of a person or organization lawfully engaged in the practice of architecture if such employees are acting under the direct supervision of an architect;

(9) The offering by an organization of a combination of services involved in the practice of architecture and construction services if:

(a) An architect or person otherwise permitted under subdivision (11) of this section to offer architectural services participates substantially in all material aspects of the offering;

(b) There is written disclosure at the time of the offering that an architect is engaged by and contractually responsible to such organization;

(c) Such organization agrees that the architect will have direct supervision of the work and that such architect's services will not be terminated without the consent of the person engaging the organization; and

(d) The rendering of architectural services by such architect will conform to the Engineers and Architects Regulation Act and the rules and regulations;

(10) A public service provider or an organization who employs a design professional performing professional services for itself;

(11) A nonresident who holds the certification issued by the National Council of Architectural Registration Boards offering to render the professional services involved in the practice of architecture. The nonresident shall not perform any of the professional services involved in the practice of architecture until licensed as provided in the act. The nonresident shall notify the board in writing that (a) he or she holds a National Council of Architectural Registration Boards certificate and is not currently licensed in Nebraska but will be present in Nebraska for the purpose of offering to render architectural services, (b) he or she will deliver a copy of the notice to every potential client to whom the applicant offers to render architectural services, and (c) he or she promises to apply immediately to the board for licensure if selected as the architect for the project;

(12) The practice by a qualified member of another legally recognized profession who is otherwise licensed or certified by this state or any political subdivision to perform services consistent with the laws of this state, the training, and the code of ethics of the respective profession, if such qualified member does not represent himself or herself to be practicing architecture and does not represent himself or herself to be an architect;

(13) Financial institutions making disbursements of funds in connection with construction projects;

(14) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivi-

sion that is not subject to a permit from the Department of Natural Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environmental Quality; and

(15) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance.

**Source:** Laws 1997, LB 622, § 49; Laws 1999, LB 253, § 3; Laws 1999, LB 440, § 1; Laws 2000, LB 900, § 251; Laws 2004, LB 599, § 3; Laws 2011, LB45, § 14.  
Effective date August 27, 2011.

**Cross References**

Negotiated Rulemaking Act, see section 84-921.

**81-3451 Professional engineer or engineer-intern; license; application; examination; requirements.**

(1) To be eligible for admission to examination to be a professional engineer or engineer-intern, an applicant must be of good moral character and reputation and shall submit five references with his or her application for licensure as a professional engineer or enrollment as an engineer-intern. Three of the references shall be professional engineers having personal knowledge of the applicant's engineering experience or, in the case of an application for enrollment as an engineer-intern, character references.

(2)(a) A person holding a certificate of licensure to engage in the practice of engineering, issued by the proper authority of a state, territory, or possession of the United States, the District of Columbia, or any foreign country, based on requirements that do not conflict with the Engineers and Architects Regulation Act and were of a standard not lower than that specified in the applicable licensure law in effect in this state at the time such certificate was issued may, upon application, be licensed as a professional engineer without further examination.

(b) A person holding an active Council Record with the National Council of Examiners for Engineering and Surveying whose qualifications as evidenced by the Council Record meet the requirements of the act may, upon application, be licensed as a professional engineer after passing an examination testing the applicant's knowledge of the applicable statutes and rules and regulations unique to the State of Nebraska.

(c) A graduate of an ABET-accredited engineering curriculum, enrolled as an engineer-intern, and having a specific record of an additional four years or more of progressive post-accredited-degree experience on engineering projects of a grade and a character which indicates to the Board of Engineers and Architects that the applicant may be competent to practice engineering shall be admitted to an examination of at least eight hours in length, administered by the board, on the principles and practice of engineering. Upon passing the examination, the applicant shall be granted a certificate of licensure to practice engineering in this state if the applicant is otherwise qualified. Engineering teaching of advanced subjects and the design of engineering research and projects in a college or university offering an ABET-accredited engineering



curriculum of four years or more may be considered as engineering experience. An applicant who does not hold an ABET-accredited engineering degree but who is enrolled as an engineer-intern in this state and has a specific record of an additional six years or more of progressive experience on engineering projects of a grade and a character which indicates to the Board of Engineers and Architects that the applicant may be competent to practice engineering shall be admitted to an examination of at least eight hours in length, administered by the board, in the principles and practice of engineering. Upon passing the examination, the applicant shall be granted a certificate of licensure to practice engineering in this state if otherwise qualified.

(3)(a) A graduate of or senior in an ABET-accredited engineering curriculum, or the substantial equivalent as determined by the board, shall be admitted to an eight-hour examination on the fundamentals of engineering. Upon passing the examination and verification of graduation, the applicant shall be enrolled as an engineer-intern.

(b) A person enrolled as an engineer-intern in a state, territory, or possession of the United States, the District of Columbia, or any foreign country, based on requirements that do not conflict with the Engineers and Architects Regulation Act and were of a standard not lower than that specified in the applicable law in effect in this state at the time such person was enrolled and who is a resident of this state may, upon application, be enrolled in this state as an engineer-intern.

**Source:** Laws 1997, LB 622, § 51; Laws 2004, LB 599, § 4; Laws 2004, LB 1069, § 1; Laws 2011, LB45, § 15.  
Effective date August 27, 2011.

**81-3452 Engineering examinations; board; procedure.**

(1) The board or its agent shall direct the time and place of engineering examinations. The board shall determine the acceptable grade on examinations.

(2) The examination will be given in at least two sections and may be taken only after the applicant has met the other minimum requirements as described in section 81-3451 and has been approved by the board for admission to the examination as follows:

(a) The fundamentals of engineering examination consists of an eight-hour test period on the fundamentals of engineering. Passing this examination qualifies the examinee for an engineer-intern enrollment card if all other requirements for certification are met; and

(b) The principles and practice of engineering examination consists of at least an eight-hour test period on applied engineering. Passing this examination qualifies the examinee for licensure as a professional engineer if all other requirements for certification are met.

(3) A candidate failing one examination may apply for reexamination, which may be granted upon payment of a fee established by the board. In the event of a second failure, the examinee may, at the discretion of the board, be required to appear before the board with evidence of having acquired the necessary additional knowledge to qualify before admission to the examination.

(4) The board may prepare and adopt specifications for the examinations. They shall be published in brochure form and be available to any person interested in being licensed or certified.

**Source:** Laws 1997, LB 622, § 52; Laws 2011, LB45, § 16.  
Effective date August 27, 2011.

**81-3453 Practice of engineering; exempted activities.**

The provisions of the Engineers and Architects Regulation Act regulating the practice of engineering do not apply to the following activities:

(1) The construction, remodeling, alteration, or renovation of a detached single-family through four-family dwelling of less than five thousand square feet above grade finished space. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(2) The construction, remodeling, alteration, or renovation of a one-story commercial or industrial building or structure of less than five thousand square feet above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the building or structure are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(3) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage and if the structures are designed to be occupied by no more than twenty persons. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(4) Any public works project with contemplated expenditures for the completed project that do not exceed one hundred thousand dollars. The board shall adjust the dollar amount in this subdivision every fifth year. The first such adjustment after August 27, 2011, shall be effective on July 1, 2014. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount;

(5) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(6) The teaching, including research and service, of engineering subjects in a college or university offering an ABET-accredited engineering curriculum of four years or more;

(7) A public service provider or an organization who employs a design professional performing professional services for itself;

(8) The practice by a qualified member of another legally recognized profession who is otherwise licensed or certified by this state or any political subdivision to perform services consistent with the laws of this state, the training, and the code of ethics of such profession, if such qualified member does not represent himself or herself to be practicing engineering and does not represent himself or herself to be a professional engineer;

(9) The offer to practice engineering by a person not a resident of and having no established place of business in this state if the person is legally qualified by licensure to practice engineering in his or her own state or country. The person shall make application to the board in writing and after payment of a fee established by the board may be granted a temporary permit for a definite period of time not to exceed one year to do a specific job. No right to practice engineering accrues to such applicant with respect to any other work not set forth in the permit;

(10) The work of an employee or a subordinate of a person holding a certificate of licensure under the act or an employee of a person practicing lawfully under subdivision (9) of this section if the work is done under the direct supervision of a person holding a certificate of licensure or a person practicing lawfully under such subdivision;

(11) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;

(12) Financial institutions making disbursements of funds in connection with construction projects;

(13) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of Natural Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environmental Quality;

(14) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance;

(15) Work performed exclusively in the exploration for and development of energy resources and base, precious, and nonprecious minerals, including sand, gravel, and aggregate, which does not have a substantial impact upon public health, safety, and welfare, as determined by the board, or require the submission of reports or documents to public agencies;

(16) The construction of water wells as defined in section 46-1212, the installation of pumps and pumping equipment into water wells, and the

decommissioning of water wells, unless such construction, installation, or decommissioning is required by the owner thereof to be designed or supervised by an engineer or unless legal requirements are imposed upon the owner of a water well as a part of a public water supply;

(17) Work performed in the exploration, development, and production of oil and gas or before the Nebraska Oil and Gas Conservation Commission; and

(18) Siting, layout, construction, and reconstruction of a private onsite wastewater treatment system with a maximum flow from the facility of one thousand gallons of domestic wastewater per day if such system meets all of the conditions required pursuant to the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act unless the siting, layout, construction, or reconstruction by an engineer is required by the Department of Environmental Quality, mandated by law or rules and regulations imposed upon the owner of the system, or required by the owner.

**Source:** Laws 1997, LB 622, § 53; Laws 1999, LB 253, § 4; Laws 1999, LB 440, § 2; Laws 2000, LB 900, § 252; Laws 2003, LB 94, § 19; Laws 2004, LB 599, § 5; Laws 2011, LB45, § 17.  
Effective date August 27, 2011.

**Cross References**

**Negotiated Rulemaking Act**, see section 84-921.

**Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act**, see section 81-15,236.

**ARTICLE 36**

**RURAL DEVELOPMENT COMMISSION**

**Section**

81-3605. Rural Development Commission; report.

81-3606. Repealed. Laws 2011, LB 378, § 37.

**81-3605 Rural Development Commission; report.**

On or before July 1 of each year, the executive director of the Rural Development Commission shall submit to the Department of Economic Development an annual report which includes a summary of the commission's activities, recommendations for future rural development action, and an accounting of the source and use of funds disbursed during the previous fiscal year. The Department of Economic Development shall include such report in the department's annual status report under section 81-1201.11.

**Source:** Laws 1993, LB 190, § 5; R.S.1943, (1994), § 81-1286; Laws 1998, LB 1053, § 5; Laws 2003, LB 48, § 3; Laws 2011, LB404, § 9.  
Operative date January 1, 2012.

**81-3606 Repealed. Laws 2011, LB 378, § 37.**

## CHAPTER 82

### STATE CULTURE AND HISTORY

Article.

3. Nebraska Arts Council. 82-331.

#### ARTICLE 3

#### NEBRASKA ARTS COUNCIL

Section

82-331. Nebraska Cultural Preservation Endowment Fund; created; use; investment.

**82-331 Nebraska Cultural Preservation Endowment Fund; created; use; investment.**

(1) There is hereby established in the state treasury a trust fund to be known as the Nebraska Cultural Preservation Endowment Fund. The fund shall consist of funds appropriated or transferred by the Legislature, and only the earnings of the fund may be used as provided in this section.

(2) On August 1, 1998, the State Treasurer shall transfer five million dollars from the General Fund to the Nebraska Cultural Preservation Endowment Fund.

(3) Except as provided in subsection (4) of this section, it is the intent of the Legislature that the State Treasurer shall transfer (a) an amount not to exceed five hundred thousand dollars from the General Fund to the Nebraska Cultural Preservation Endowment Fund on December 31 of 2009 and 2010 and (b) an amount not to exceed five hundred thousand dollars from the General Fund to the Nebraska Cultural Preservation Endowment Fund on December 31 of 2013, 2014, 2015, 2016, 2017, and 2018.

(4) Prior to the transfer of funds from any state account into the Nebraska Cultural Preservation Endowment Fund, the Nebraska Arts Council shall provide documentation to the budget division of the Department of Administrative Services that qualified endowments have generated a dollar-for-dollar match of new money, up to the amount of state funds authorized by the Legislature to be transferred to the Nebraska Cultural Preservation Endowment Fund. The budget division of the Department of Administrative Services shall notify the State Treasurer to execute a transfer of state funds up to the amount specified by the Legislature, but only to the extent that the Nebraska Arts Council has provided documentation of a dollar-for-dollar match. Funds not transferred shall be carried forward to the succeeding year and be added to the funds authorized for a dollar-for-dollar match during that year.

(5) The Legislature shall not appropriate or transfer money from the Nebraska Cultural Preservation Endowment Fund for any purpose other than the purposes stated in sections 82-330 to 82-333, except that the Legislature may appropriate or transfer money from the fund upon a finding that the purposes of such sections are not being accomplished by the fund.

(6) Any money in the Nebraska Cultural Preservation Endowment 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.

(7) All investment earnings from the Nebraska Cultural Preservation Endowment Fund shall be credited to the Nebraska Arts and Humanities Cash Fund.

**Source:** Laws 1998, LB 799, § 2; Laws 2008, LB1165, § 1; Laws 2009, LB316, § 23; Laws 2010, LB1063, § 3; Laws 2011, LB378, § 30. Effective date May 18, 2011.

**Cross References**

**Nebraska Capital Expansion Act**, see section 72-1269.

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

## CHAPTER 83

### STATE INSTITUTIONS

#### Article.

1. Management.
  - (f) Correctional Services, Parole, and Pardons. 83-1,102 to 83-1,135.
3. Hospitals.
  - (d) Cost of Patient Care. 83-380.
4. Penal and Correctional Institutions.
  - (i) Criminal Detention Minimum Standards. 83-4,126, 83-4,131.

#### ARTICLE 1

#### MANAGEMENT

##### (f) CORRECTIONAL SERVICES, PAROLE, AND PARDONS

#### Section

- 83-1,102. Parole Administrator; duties.
- 83-1,105.01. Indeterminate sentence; court; duties; study of offender; when; costs.
- 83-1,107. Reductions of sentence; personalized program plan; how credited; forfeiture; withholding; restoration.
- 83-1,107.02. Parole Program Cash Fund; created; use; investment.
- 83-1,108. Board of Parole; reduction of sentence for good conduct; provisions; forfeiture.
- 83-1,112.01. Person convicted of multiple violations of driving under influence of alcoholic liquor or drugs; parole eligibility.
- 83-1,135. Act, how cited.

##### (f) CORRECTIONAL SERVICES, PAROLE, AND PARDONS

#### **83-1,102 Parole Administrator; duties.**

The Parole Administrator shall:

- (1) Supervise and administer the Office of Parole Administration;
- (2) Establish and maintain policies, standards, and procedures for the field parole service and the community supervision of sex offenders pursuant to section 83-174.03;
- (3) Divide the state into parole districts and appoint district parole officers, deputy parole officers, if required, and such other employees as may be required to carry out adequate parole supervision of all parolees, adequate probation supervision of probationers as ordered by district judges, prescribe their powers and duties, and obtain office quarters for staff in each district as may be necessary;
- (4) Cooperate with the Board of Parole, the courts, the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice, and all other agencies, public and private, which are concerned with the treatment or welfare of persons on parole;
- (5) Provide the Board of Parole and district judges with any record of a parolee or probationer which it may require;
- (6) Make recommendations to the Board of Parole or district judge in cases of violation of the conditions of parole or probation, issue warrants for the arrest

of parole or probation violators when so instructed by the board or district judge, notify the Director of Correctional Services of determinations made by the board, and upon instruction of the board, issue certificates of parole and of parole revocation to the facilities and certificates of discharge from parole to parolees;

(7) Organize and conduct training programs for the district parole officers and other employees;

(8) Use the funds provided under section 83-1,107.02 to augment operational or personnel costs associated with the development, implementation, and evaluation of enhanced parole-based programs and purchase services to provide such programs aimed at enhancing adult parolee supervision in the community and treatment needs of parolees. Such enhanced parole-based programs include, but are not limited to, specialized units of supervision, related equipment purchases and training, and programs that address a parolee's vocational, educational, mental health, behavioral, or substance abuse treatment needs;

(9) Ensure that any risk or needs assessment instrument utilized by the system be periodically validated; and

(10) Exercise all powers and perform all duties necessary and proper in carrying out his or her responsibilities.

**Source:** Laws 1969, c. 817, § 33, p. 3088; Laws 1971, LB 680, § 28; Laws 2003, LB 46, § 19; Laws 2005, LB 538, § 23; Laws 2006, LB 1199, § 93; Laws 2011, LB390, § 25.

Operative date July 1, 2011.

**Cross References**

Definitions applicable, see section 29-2246.

**83-1,105.01 Indeterminate sentence; court; duties; study of offender; when; costs.**

Except when a term of life imprisonment is required by law, in imposing an indeterminate sentence upon an offender the court shall:

(1) Fix the minimum and maximum limits of the sentence to be served within the limits provided by law for any class of felony other than a Class IV felony, except that when a maximum limit of life is imposed by the court for a Class IB felony, the minimum limit may be any term of years not less than the statutory mandatory minimum. If the criminal offense is a Class IV felony, the court shall fix the minimum and maximum limits of the sentence, but the minimum limit fixed by the court shall not be less than the minimum provided by law nor more than one-third of the maximum term and the maximum limit shall not be greater than the maximum provided by law;

(2) Impose a definite term of years, in which event the maximum term of the sentence shall be the term imposed by the court and the minimum term shall be the minimum sentence provided by law; or

(3)(a) When the court is of the opinion that imprisonment may be appropriate but desires more detailed information as a basis for determining the sentence to be imposed than has been provided by the presentence report required by section 29-2261, the court shall commit an offender to the Department of Correctional Services for a period not exceeding ninety days. The department shall conduct a complete study of the offender during that time, inquiring into



such matters as his or her previous delinquency or criminal experience, social background, capabilities, and mental, emotional, and physical health and the rehabilitative resources or programs which may be available to suit his or her needs. By the expiration of the period of commitment or by the expiration of such additional time as the court shall grant, not exceeding a further period of ninety days, the offender shall be returned to the court for sentencing and the court shall be provided with a written report of the results of the study, including whatever recommendations the department believes will be helpful to a proper resolution of the case. After receiving the report and the recommendations, the court shall proceed to sentence the offender in accordance with any applicable provision of law. The term of the sentence shall run from the date of original commitment under this subdivision.

(b) In order to encourage the use of this procedure in appropriate cases, all costs incurred during the period the offender is held in a state institution under this subdivision shall be the responsibility of the state and the county shall be liable only for the cost of delivering the offender to the institution and the cost of returning him or her to the appropriate court for sentencing or such other disposition as the court may then deem appropriate.

**Source:** Laws 1997, LB 364, § 20; Laws 2002, Third Spec. Sess., LB 1, § 17; Laws 2011, LB12, § 6.  
Effective date August 27, 2011.

**83-1,107 Reductions of sentence; personalized program plan; how credited; forfeiture; withholding; restoration.**

(1)(a) Within sixty days after initial classification and assignment of any offender committed to the department, all available information regarding such committed offender shall be reviewed and a committed offender department-approved personalized program plan document shall be drawn up. The document shall specifically describe the department-approved personalized program plan and the specific goals the department expects the committed offender to achieve. The document shall also contain a realistic schedule for completion of the department-approved personalized program plan. The department-approved personalized program plan shall be fully explained to the committed offender. The department shall provide programs to allow compliance by the committed offender with the department-approved personalized program plan.

Programming may include, but is not limited to:

(i) Academic and vocational education, including teaching such classes by qualified offenders;

(ii) Substance abuse treatment;

(iii) Mental health and psychiatric treatment, including criminal personality programming;

(iv) Constructive, meaningful work programs; and

(v) Any other program deemed necessary and appropriate by the department.

(b) A modification in the department-approved personalized program plan may be made to account for the increased or decreased abilities of the committed offender or the availability of any program. Any modification shall be made only after notice is given to the committed offender. The department may not impose disciplinary action upon any committed offender solely because of the committed offender's failure to comply with the department-

approved personalized program plan, but such failure may be considered by the board in its deliberations on whether or not to grant parole to a committed offender.

(2)(a) The department shall reduce the term of a committed offender by six months for each year of the offender's term and pro rata for any part thereof which is less than a year.

(b) In addition to reductions granted in subdivision (2)(a) of this section, the department shall reduce the term of a committed offender by three days on the first day of each month following a twelve-month period of incarceration within the department during which the offender has not been found guilty of (i) a Class I or Class II offense or (ii) more than three Class III offenses under the department's disciplinary code. Reductions earned under this subdivision shall not be subject to forfeit or withholding by the department.

(c) The total reductions under this subsection shall be credited from the date of sentence, which shall include any term of confinement prior to sentence and commitment as provided pursuant to section 83-1,106, and shall be deducted from the maximum term, to determine the date when discharge from the custody of the state becomes mandatory.

(3) While the offender is in the custody of the department, reductions of terms granted pursuant to subdivision (2)(a) of this section may be forfeited, withheld, and restored by the chief executive officer of the facility with the approval of the director after the offender has been notified regarding the charges of misconduct.

(4) The department shall make treatment programming available to committed offenders as provided in section 83-1,110.01 and shall include continuing participation in such programming as part of each offender's parolee personalized program plan.

(5)(a) Within thirty days after any committed offender has been paroled, all available information regarding such parolee shall be reviewed and a parolee personalized program plan document shall be drawn up and approved by the Office of Parole Administration. The document shall specifically describe the approved personalized program plan and the specific goals the office expects the parolee to achieve. The document shall also contain a realistic schedule for completion of the approved personalized program plan. The approved personalized program plan shall be fully explained to the parolee. During the term of parole, the parolee shall comply with the approved personalized program plan and the office shall provide programs to allow compliance by the parolee with the approved personalized program plan.

Programming may include, but is not limited to:

- (i) Academic and vocational education;
- (ii) Substance abuse treatment;
- (iii) Mental health and psychiatric treatment, including criminal personality programming;
- (iv) Constructive, meaningful work programs;
- (v) Community service programs; and
- (vi) Any other program deemed necessary and appropriate by the office.

(b) A modification in the approved personalized program plan may be made to account for the increased or decreased abilities of the parolee or the

availability of any program. Any modification shall be made only after notice is given to the parolee. Intentional failure to comply with the approved personalized program plan by any parolee as scheduled for any year, or pro rata part thereof, shall cause disciplinary action to be taken by the office resulting in the forfeiture of up to a maximum of three months' good time for the scheduled year.

(6) While the offender is in the custody of the board, reductions of terms granted pursuant to subdivision (2)(a) of this section may be forfeited, withheld, and restored by the administrator with the approval of the director after the offender has been notified regarding the charges of misconduct or breach of the conditions of parole. In addition, the board may recommend such forfeitures of good time to the director.

(7) Good time or other reductions of sentence granted under the provisions of any law prior to July 1, 1996, may be forfeited, withheld, or restored in accordance with the terms of the Nebraska Treatment and Corrections Act.

**Source:** Laws 1969, c. 817, § 38, p. 3092; Laws 1972, LB 1499, § 7; Laws 1975, LB 567, § 2; Laws 1992, LB 816, § 2; Laws 1995, LB 371, § 20; Laws 1997, LB 364, § 19; Laws 2003, LB 46, § 20; Laws 2011, LB191, § 1.

Effective date March 17, 2011.

**83-1,107.02 Parole Program Cash Fund; created; use; investment.**

The Parole Program Cash Fund is created. All funds collected pursuant to section 83-1,107.01 shall be remitted to the State Treasurer for credit to the fund. The fund shall be utilized by the Office of Parole Administration for the purposes stated in subdivision (8) of section 83-1,102. 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 46, § 22; Laws 2011, LB390, § 26.

Operative date July 1, 2011.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

**83-1,108 Board of Parole; reduction of sentence for good conduct; provisions; forfeiture.**

(1) The board shall reduce, for good conduct in conformity with the conditions of parole, a parolee's parole term by ten days for each month of such term. The total of such reductions shall be deducted from the maximum term, less good time granted pursuant to section 83-1,107, to determine the date when discharge from parole becomes mandatory.

(2) Reductions of the parole terms may be forfeited, withheld, and restored by the board after the parolee has been consulted regarding any charge of misconduct or breach of the conditions of parole.

**Source:** Laws 1969, c. 817, § 39, p. 3092; Laws 1972, LB 1499, § 8; Laws 1975, LB 567, § 4; Laws 1992, LB 816, § 3; Laws 2011, LB191, § 2.

Effective date March 17, 2011.

**83-1,112.01 Person convicted of multiple violations of driving under influence of alcoholic liquor or drugs; parole eligibility.**

The board shall require any person who is incarcerated pursuant to subdivision (9) or (10) of section 60-6,197.03 to complete all diagnostic evaluations provided by the department and all programming required by the department prior to being considered eligible for parole.

**Source:** Laws 2011, LB675, § 12.  
Operative date January 1, 2012.

**83-1,135 Act, how cited.**

Sections 83-170 to 83-1,135 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.  
Operative date January 1, 2012.

**ARTICLE 3****HOSPITALS**

## (d) COST OF PATIENT CARE

Section

83-380. Cost of patient care; Director of Administrative Services; notify county clerk of amount due; levy; disbursement; withholding of funds by state.

## (d) COST OF PATIENT CARE

**83-380 Cost of patient care; Director of Administrative Services; notify county clerk of amount due; levy; disbursement; withholding of funds by state.**

Within thirty days after June 30, 1971, and each year thereafter, the department shall certify to the Director of Administrative Services all amounts not previously certified due to each state institution from the several counties having patients chargeable thereto. The Director of Administrative Services shall thereupon notify the county clerk of each county of the amount each county owes. The county board shall add to its next levy an amount sufficient to raise the amount certified as due. The county shall pay the amount certified into the state treasury on or before the next June 1 following such certification.

**Source:** Laws 1969, c. 812, § 18, p. 3056; Laws 1971, LB 1012, § 2; Laws 1996, LB 1044, § 950; Laws 2007, LB296, § 797; Laws 2009, LB218, § 10; Laws 2011, LB383, § 6.  
Operative date July 1, 2011.

**ARTICLE 4****PENAL AND CORRECTIONAL INSTITUTIONS**

## (i) CRIMINAL DETENTION MINIMUM STANDARDS

Section

83-4,126. Jail Standards Board; powers and duties; enumerated.  
83-4,131. Detention facility; inspection; report.

## (i) CRIMINAL DETENTION MINIMUM STANDARDS

**83-4,126 Jail Standards Board; powers and duties; enumerated.**

(1) Except as provided in subsection (2) of this section, the Jail Standards Board shall have the authority and responsibility:

(a) To develop minimum standards for the construction, maintenance, and operation of criminal detention facilities;

(b) To perform such other duties as may be necessary to carry out the policy of the state regarding such criminal detention facilities and juvenile detention facilities as stated in sections 83-4,124 to 83-4,134; and

(c) Consistent with the purposes and objectives of the Juvenile Services Act, to develop standards for juvenile detention facilities, including, but not limited to, standards for physical facilities, care, programs, and disciplinary procedures, and to develop guidelines pertaining to the operation of such facilities.

(2) The Jail Standards Board shall not have authority over or responsibility for correctional facilities that are accredited by a nationally recognized correctional association. A correctional facility that is accredited by a nationally recognized correctional association shall show proof of accreditation annually to the Jail Standards Board. For purposes of this subsection, nationally recognized correctional association includes, but is not limited to, the American Correctional Association or its successor.

**Source:** Laws 1975, LB 417, § 28; Laws 1978, LB 212, § 3; R.S.Supp.,1980, § 83-948; Laws 1990, LB 663, § 17; Laws 1992, LB 1184, § 19; Laws 2011, LB390, § 27.  
Operative date July 1, 2011.

## Cross References

Juvenile Services Act, see section 43-2401.

**83-4,131 Detention facility; inspection; report.**

Personnel of the Nebraska Commission on Law Enforcement and Criminal Justice shall visit and inspect each criminal detention facility and juvenile detention facility in the state, except correctional facilities accredited by a nationally recognized correctional association pursuant to subsection (2) of section 83-4,126, for the purpose of determining the conditions of confinement, the treatment of persons confined in the facilities, and whether such facilities comply with the minimum standards established by the Jail Standards Board. A written report of each inspection shall be made within thirty days following such inspection to the appropriate governing body responsible for the criminal detention facility or juvenile detention facility involved. The report shall specify those areas in which the facility does not comply with the required minimum standards.

**Source:** Laws 1975, LB 417, § 30; Laws 1978, LB 212, § 8; R.S.Supp.,1980, § 83-950; Laws 1981, LB 328, § 10; Laws 1992, LB 1184, § 20; Laws 1996, LB 233, § 18; Laws 2011, LB390, § 28.  
Operative date July 1, 2011.



## CHAPTER 84 STATE OFFICERS

### Article.

3. Auditor of Public Accounts. 84-304.02.
5. Secretary of State. 84-511.
6. State Treasurer. 84-612.
7. General Provisions as to State Officers. 84-712.05.
9. Rules of Administrative Agencies.
  - (a) Administrative Procedure Act. 84-901.01 to 84-920.
13. State Employees Retirement Act. 84-1301 to 84-1322.
14. Public Meetings. 84-1409, 84-1410.
15. Public Employees Retirement Board. 84-1501 to 84-1511.

### ARTICLE 3 AUDITOR OF PUBLIC ACCOUNTS

#### Section

84-304.02. Auditor; audit, financial, or accounting reports; written review; copies; disposition.

**84-304.02 Auditor; audit, financial, or accounting reports; written review; copies; disposition.**

(1) Except as provided in subsection (2) of this section, the Auditor of Public Accounts, or a person designated by him or her, shall prepare a written review of all audit, accounting, or financial reports required to be filed by a political subdivision of the state with the Auditor of Public Accounts and cause one copy of such written review to be mailed to the political subdivision involved and one copy to the accountant who prepared the report. Such written review shall specifically set forth wherein the audit, accounting, or financial report fails to comply with the applicable minimum standards and the necessary action to be taken to bring the report into compliance with such standards. The Auditor of Public Accounts may, upon continued failure to comply with such standards, refuse to accept for filing an audit, accounting, or financial report or any future report submitted for filing by any political subdivision.

(2) For public retirement system plan reports required to be submitted to the Auditor of Public Accounts pursuant to sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, and 71-1631.02, the auditor may prepare a review of such report pursuant to subsection (1) of this section but is not required to do so.

**Source:** Laws 1974, LB 922, § 2; Laws 1993, LB 310, § 16; Laws 2011, LB474, § 13.

Effective date August 27, 2011.

### ARTICLE 5 SECRETARY OF STATE

#### Section

84-511. Electronic transmission and filing of documents.

**84-511 Electronic transmission and filing of documents.**

The Secretary of State may provide for the electronic transmission and filing of documents delivered for filing under (1) the Business Corporation Act, the Limited Liability Company Act, the Nebraska Limited Cooperative Association Act, the Nebraska Nonprofit Corporation Act, the Nebraska Professional Corporation Act, the Nebraska Uniform Limited Partnership Act, the Nonstock Cooperative Marketing Act, the Uniform Partnership Act of 1998, and the Trademark Registration Act and (2) any filing provisions of sections 21-1301 to 21-1306, 21-1333 to 21-1339, and 87-208 to 87-219.01. The Secretary of State shall adopt and promulgate rules and regulations to implement this section.

**Source:** Laws 2010, LB791, § 1; Laws 2011, LB462, § 7.  
Effective date August 27, 2011.

**Cross References**

**Business Corporation Act**, see section 21-2001.  
**Limited Liability Company Act**, see section 21-2601.  
**Nebraska Limited Cooperative Association Act**, see section 21-2901.  
**Nebraska Nonprofit Corporation Act**, see section 21-1901.  
**Nebraska Professional Corporation Act**, see section 21-2201.  
**Nebraska Uniform Limited Partnership Act**, see section 67-296.  
**Nonstock Cooperative Marketing Act**, see section 21-1401.  
**Trademark Registration Act**, see section 87-126.  
**Uniform Partnership Act of 1998**, see section 67-401.

**ARTICLE 6****STATE TREASURER**

## Section

84-612. Cash Reserve Fund; created; transfers; receipt of federal funds.

**84-612 Cash Reserve Fund; created; transfers; receipt of federal funds.**

(1) There is hereby created within the state treasury a fund known as the Cash Reserve Fund which shall be under the direction of the State Treasurer. The fund shall only be used pursuant to this section.

(2) The State Treasurer shall transfer funds from the Cash Reserve Fund to the General Fund upon certification by the Director of Administrative Services that the current cash balance in the General Fund is inadequate to meet current obligations. Such certification shall include the dollar amount to be transferred. Any transfers made pursuant to this subsection shall be reversed upon notification by the Director of Administrative Services that sufficient funds are available.

(3) In addition to receiving transfers from other funds, the Cash Reserve Fund shall receive federal funds received by the State of Nebraska for undesignated general government purposes, federal revenue sharing, or general fiscal relief of the state.

(4) The State Treasurer, at the direction of the budget administrator of the budget division of the Department of Administrative Services, shall transfer such amounts, as certified by the Director of Administrative Services, for employee health insurance claims and expenses, not to exceed twelve million dollars in total from the Cash Reserve Fund to the State Employees Insurance Fund between May 1, 2007, and June 30, 2011.



(5) On July 9, 2007, the State Treasurer shall transfer five million dollars from the Cash Reserve Fund to the Job Training Cash Fund.

(6) On July 7, 2008, the State Treasurer shall transfer five million dollars from the Cash Reserve Fund to the Job Training Cash Fund.

(7) The State Treasurer, at the direction of the budget administrator, shall transfer an amount equal to the total amount transferred pursuant to subsection (4) of this section from the appropriate health insurance accounts of the State Employees Insurance Fund in such amounts as certified by the Director of Administrative Services to the Cash Reserve Fund on or before June 30, 2011.

(8) On July 7, 2009, the State Treasurer shall transfer five million dollars from the Cash Reserve Fund to the Roads Operations Cash Fund. The Department of Roads shall use such funds to provide the required state match for federal funding made available to the state through congressional earmarks.

(9) Within five days after the budget division of the Department of Administrative Services notifies the State Treasurer that matching fund requirements under section 82-331 have been met, the State Treasurer shall transfer one million dollars from the Cash Reserve Fund to the Nebraska Cultural Preservation Endowment Fund.

(10) On or before June 15, 2011, the State Treasurer, at the direction of the budget administrator, shall transfer one hundred fifty-one million dollars from the Cash Reserve Fund to the General Fund.

(11) On or before June 30, 2011, the State Treasurer, at the direction of the budget administrator, shall transfer three million dollars from the Cash Reserve Fund to the General Fund.

(12) The State Treasurer shall transfer a total of thirty-seven million dollars from the Cash Reserve Fund to the General Fund on or before June 30, 2012, on such dates and in such amounts as directed by the budget administrator.

(13) The State Treasurer shall transfer a total of sixty-eight million dollars from the Cash Reserve Fund to the General Fund on or before June 30, 2013, on such dates and in such amounts as directed by the budget administrator.

(14) The State Treasurer, at the direction of the budget administrator, shall transfer not to exceed twelve million dollars in total between July 1, 2011, and November 30, 2012, from the Cash Reserve Fund to the Ethanol Production Incentive Cash Fund, for ethanol production incentive credits, on such dates and in such amounts as certified by the Tax Commissioner.

(15) The State Treasurer, at the direction of the budget administrator, shall transfer an amount equal to the total amount transferred pursuant to subsection (14) of this section from the Ethanol Production Incentive Cash Fund to the Cash Reserve Fund in such amounts as certified by the Tax Commissioner on or before November 30, 2012.

**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.

Effective date May 18, 2011.

## ARTICLE 7

### GENERAL PROVISIONS AS TO STATE OFFICERS

#### Section

84-712.05. Records which may be withheld from the public; enumerated.

#### **84-712.05 Records which may be withheld from the public; enumerated.**

The following records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records:

(1) Personal information in records regarding a student, prospective student, or former student of any educational institution or exempt school that has effectuated an election not to meet state approval or accreditation requirements pursuant to section 79-1601 when such records are maintained by and in the possession of a public entity, other than routine directory information specified and made public consistent with 20 U.S.C. 1232g, as such section existed on January 1, 2003;

(2) Medical records, other than records of births and deaths and except as provided in subdivision (5) of this section, in any form concerning any person; records of elections filed under section 44-2821; and patient safety work product under the Patient Safety Improvement Act;

(3) Trade secrets, academic and scientific research work which is in progress and unpublished, and other proprietary or commercial information which if released would give advantage to business competitors and serve no public purpose;

(4) Records which represent the work product of an attorney and the public body involved which are related to preparation for litigation, labor negotiations, or claims made by or against the public body or which are confidential communications as defined in section 27-503;

(5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training, except that this subdivision shall not apply to records so developed or received relating to the presence of and amount or concentration of alcohol or drugs in any body fluid of any person;

(6) Appraisals or appraisal information and negotiation records concerning the purchase or sale, by a public body, of any interest in real or personal property, prior to completion of the purchase or sale;

(7) Personal information in records regarding personnel of public bodies other than salaries and routine directory information;

(8) Information solely pertaining to protection of the security of public property and persons on or within public property, such as specific, unique vulnerability assessments or specific, unique response plans, either of which is intended to prevent or mitigate criminal acts the public disclosure of which would create a substantial likelihood of endangering public safety or property; computer or communications network schema, passwords, and user identification names; guard schedules; lock combinations; or public utility infrastructure specifications or design drawings the public disclosure of which would create a substantial likelihood of endangering public safety or property, unless otherwise provided by state or federal law;

(9) The security standards, procedures, policies, plans, specifications, diagrams, access lists, and other security-related records of the Lottery Division of the Department of Revenue and those persons or entities with which the division has entered into contractual relationships. Nothing in this subdivision shall allow the division to withhold from the public any information relating to amounts paid persons or entities with which the division has entered into contractual relationships, amounts of prizes paid, the name of the prize winner, and the city, village, or county where the prize winner resides;

(10) With respect to public utilities and except as provided in sections 43-512.06 and 70-101, personally identified private citizen account payment and customer use information, credit information on others supplied in confidence, and customer lists;

(11) Records or portions of records kept by a publicly funded library which, when examined with or without other records, reveal the identity of any library patron using the library's materials or services;

(12) Correspondence, memoranda, and records of telephone calls related to the performance of duties by a member of the Legislature in whatever form. The lawful custodian of the correspondence, memoranda, and records of telephone calls, upon approval of the Executive Board of the Legislative Council, shall release the correspondence, memoranda, and records of telephone calls which are not designated as sensitive or confidential in nature to any person performing an audit of the Legislature. A member's correspondence, memoranda, and records of confidential telephone calls related to the performance of his or her legislative duties shall only be released to any other person with the explicit approval of the member;

(13) Records or portions of records kept by public bodies which would reveal the location, character, or ownership of any known archaeological, historical, or paleontological site in Nebraska when necessary to protect the site from a reasonably held fear of theft, vandalism, or trespass. This section shall not apply to the release of information for the purpose of scholarly research, examination by other public bodies for the protection of the resource or by recognized tribes, the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or the federal Native American Graves Protection and Repatriation Act;

(14) Records or portions of records kept by public bodies which maintain collections of archaeological, historical, or paleontological significance which reveal the names and addresses of donors of such articles of archaeological, historical, or paleontological significance unless the donor approves disclosure, except as the records or portions thereof may be needed to carry out the purposes of the Unmarked Human Burial Sites and Skeletal Remains Protection Act or the federal Native American Graves Protection and Repatriation Act;

(15) Job application materials submitted by applicants, other than finalists, who have applied for employment by any public body as defined in section 84-1409. For purposes of this subdivision, (a) job application materials means employment applications, resumes, reference letters, and school transcripts and (b) finalist means any applicant (i) who reaches the final pool of applicants, numbering four or more, from which the successful applicant is to be selected, (ii) who is an original applicant when the final pool of applicants numbers less than four, or (iii) who is an original applicant and there are four or fewer original applicants;

(16) Records obtained by the Public Employees Retirement Board pursuant to section 84-1512;

(17) Social security numbers; credit card, charge card, or debit card numbers and expiration dates; and financial account numbers supplied to state and local governments by citizens; and

(18) Information exchanged between a jurisdictional utility and city pursuant to section 66-1867.

**Source:** Laws 1979, LB 86, § 5; Laws 1983, LB 108, § 1; Laws 1983, LB 565, § 1; Laws 1993, LB 579, § 6; Laws 1993, LB 590, § 6; Laws 1993, LB 719, § 2; Laws 1994, LB 1061, § 7; Laws 1994, LB 1224, § 88; Laws 1995, LB 343, § 7; Laws 1995, LB 509, § 6; Laws 1999, LB 137, § 1; Laws 2002, LB 276, § 7; Laws 2004, LB 236, § 1; Laws 2004, LB 868, § 3; Laws 2005, LB 361, § 37; Laws 2007, LB389, § 1; Laws 2009, LB188, § 8; Laws 2009, LB658, § 7; Laws 2011, LB230, § 1.  
Effective date August 27, 2011.

**Cross References**

**Patient Safety Improvement Act**, see section 71-8701.

**Unmarked Human Burial Sites and Skeletal Remains Protection Act**, see section 12-1201.

**ARTICLE 9**

**RULES OF ADMINISTRATIVE AGENCIES**

(a) ADMINISTRATIVE PROCEDURE ACT

Section

- 84-901.01. Adoption and promulgation of rules and regulations; time; failure to adopt and promulgate; written explanation; contents; effect of Laws 2011, LB617.
- 84-907. Rule or regulation; adoption; amendment; repeal; hearing; notice; procedure.
- 84-907.09. Adoption, amendment, or repeal of rule or regulation; provide information to Governor.
- 84-910. Agency; status report to Legislative Performance Audit Committee; contents; format.
- 84-920. Act, how cited.

## (a) ADMINISTRATIVE PROCEDURE ACT

**84-901.01 Adoption and promulgation of rules and regulations; time; failure to adopt and promulgate; written explanation; contents; effect of Laws 2011, LB617.**

On or after May 25, 2011, when legislation is enacted requiring the adoption and promulgation of rules and regulations by an agency, such agency shall adopt and promulgate such rules and regulations within one year after the public hearing required under subsection (2) of section 84-907. Such time shall not include the time necessary for submission of the rules and regulations to the Attorney General pursuant to section 84-905.01 or submission of the rules and regulations to the Governor pursuant to section 84-908. Any agency which does not adopt and promulgate such rules and regulations as required by this section shall submit a written explanation to the Executive Board of the Legislative Council and the standing committee of the Legislature which has subject matter jurisdiction over the issue involved in the legislation, stating the reasons why it has not adopted such rules and regulations as required by this section, the date by which the agency expects to adopt such rules and regulations, and any suggested statutory changes that may enable the agency to adopt such rules and regulations.

The changes made to the Administrative Procedure Act by Laws 2011, LB617, shall not affect the validity or effectiveness of a rule or regulation adopted prior to May 25, 2011.

**Source:** Laws 2011, LB617, § 1.

Effective date May 25, 2011.

**84-907 Rule or regulation; adoption; amendment; repeal; hearing; notice; procedure.**

(1) No rule or regulation shall be adopted, amended, or repealed by any agency except after public hearing on the question of adopting, amending, or repealing such rule or regulation. Notice of such hearing shall be given at least thirty days prior thereto to the Secretary of State and by publication in a newspaper having general circulation in the state. All such hearings shall be open to the public.

(2) The public hearing on a rule or regulation that is required to be adopted, amended, or repealed based upon a legislative bill shall be held within twelve months after the effective or operative date of the legislative bill. If there is more than one applicable effective or operative date, the twelve-month period shall be calculated using the latest date. In addition to the requirements of section 84-906.01, draft copies or working copies of all rules and regulations to be adopted, amended, or repealed by any agency shall be available to the public in the office of the Secretary of State at the time of giving notice. The notice shall include: (a) A declaration of availability of such draft or work copies for public examination; (b) a short explanation of the purpose of the proposed rule or regulation or the reason for the amendment or repeal of the rule or regulation; and (c) a description, including an estimated quantification, of the fiscal impact on state agencies, political subdivisions, and persons being regulated or an explanation of where the description of the fiscal impact may be inspected and obtained. No person may challenge the validity of any rule or regulation, the adoption, amendment, or repeal of any rule or regulation, or

any determination of the applicability of any rule or regulation on the basis of the explanation or description provided pursuant to subdivisions (b) and (c) of this subsection.

(3) Any agency adopting, amending, or repealing a rule or regulation may make written application to the Governor who may, upon receipt of a written showing of good cause, waive the notice of public hearing.

For purposes of this subsection, good cause shall include, but not be limited to, a showing by the agency that:

(a) Compliance with the requirements of this section would result in extreme hardship on the citizens of this state;

(b) An emergency exists which must be remedied immediately; or

(c) A timely filing or publication of notice of a public hearing or the public hearing was prevented by some unforeseeable event beyond the immediate control of the agency and that the parties affected have not and will not suffer material injury as a result of the agency's action.

(4) Whenever public notice is waived, the agency shall, so far as practicable, give notice to the public of the proposed rule or regulation change and of the rule or regulation as finally adopted or changed.

**Source:** Laws 1953, c. 359, § 1, p. 1138; Laws 1977, LB 462, § 1; Laws 1978, LB 585, § 1; Laws 1980, LB 846, § 1; Laws 1986, LB 992, § 7; Laws 1987, LB 253, § 8; Laws 1987, LB 487, § 1; Laws 1994, LB 446, § 21; Laws 2005, LB 373, § 4; Laws 2011, LB617, § 2.

Effective date May 25, 2011.

**84-907.09 Adoption, amendment, or repeal of rule or regulation; provide information to Governor.**

Whenever an agency proposes to adopt, amend, or repeal a rule or regulation, (1) at least thirty days before the public hearing, when notice of a proposed rule or regulation is sent out, or (2) at the same time the agency applies to the Governor for a waiver of the notice of public hearing under section 84-907, the agency shall provide to the Governor for review (a) a description of the proposed rule or regulation and the entity or entities it will impact, (b) an explanation of the necessity of the proposed rule or regulation, including the identification of the specific legislative bill if applicable, or the authorizing statute when there is no legislative bill applicable, (c) a statement that the proposed rule or regulation is consistent with legislative intent, (d) a statement indicating whether the proposed rule or regulation is the result of a state mandate on a local governmental subdivision and if the mandate is funded, (e) a statement indicating if the proposed rule or regulation is the result of a federal mandate on state government or on a local governmental subdivision and if the mandate is funded, (f) a description, including an estimated quantification, of the fiscal impact on state agencies, political subdivisions, and regulated persons, (g) a statement that the agency will solicit public comment on the proposed rule or regulation before the public hearing, and (h) a statement indicating whether or not the agency has utilized the negotiated

rulemaking process as provided for in the Negotiated Rulemaking Act with respect to the proposed rule or regulation.

**Source:** Laws 2005, LB 373, § 1; Laws 2011, LB617, § 3.  
Effective date May 25, 2011.

Cross References

Negotiated Rulemaking Act, see section 84-921.

**84-910 Agency; status report to Legislative Performance Audit Committee; contents; format.**

On or before July 1 of each year, each agency shall provide to the Legislative Performance Audit Committee a status report on all rules and regulations pending before the agency which have not been adopted and promulgated. If an additional appropriation was made with respect to legislation enacted to provide funding for or additional staff to implement a program for which rules and regulations are required to be adopted, the status report shall include what the funding has been used for and what functions the staff have been performing while such rules and regulations are pending. The format of the report shall be established by the committee no later than June 1, 2011, and shall be updated thereafter.

**Source:** Laws 2011, LB617, § 4.  
Effective date May 25, 2011.

**84-920 Act, how cited.**

Sections 84-901 to 84-920 shall be known and may be cited as the Administrative Procedure Act.

**Source:** Laws 1987, LB 253, § 22; Laws 1994, LB 446, § 38; Laws 1995, LB 490, § 191; Laws 2005, LB 373, § 8; Laws 2011, LB617, § 5.  
Effective date May 25, 2011.

**ARTICLE 13**

**STATE EMPLOYEES RETIREMENT ACT**

Section

84-1301.	Terms, defined.
84-1307.	Retirement system; membership; requirements; composition; exercise of option to join; effect; new employee; participation in another governmental plan; how treated; separate employment; effect.
84-1309.02.	Cash balance benefit; election; effect; administrative services agreements; authorized.
84-1313.02.	Retirement system; transfer eligible rollover distribution; conditions.
84-1321.01.	Termination of employment; account forfeited; when; State Employer Retirement Expense Fund; created; investment.
84-1322.	Employees; reemployment; status; how treated; reinstatement; repay amount received.

**84-1301 Terms, defined.**

For purposes of the State Employees Retirement Act, unless the context otherwise requires:

(1) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of an annuity payment. 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;

(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, 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 a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration;

(9) Employee means any employee of the State Board of Agriculture who is a member of the state retirement system on July 1, 1982, and 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. 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 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 eligible for membership under the School Employees Retirement System of the State of Nebraska who have not elected to become members of the retirement system pursuant to section 79-920 or been made members of the system pursuant to such section, except that those persons so eligible and who as of September 2, 1973, are contributing to the State Employees Retirement System of the State of Nebraska shall continue as members of such system, 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) 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;

(18) 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;

(19) 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;

(20) One-year break in service means a plan year during which the member has not completed more than five hundred hours of service;

(21) Participation means qualifying for and making the required deposits to the retirement system during the course of a plan year;

(22) Part-time employee means an employee who is employed to work less than one-half of the regularly scheduled hours during each pay period;

(23) Plan year means the twelve-month period beginning on January 1 and ending on December 31;

(24) Prior service means service before January 1, 1964;

(25) 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;

(26) Required contribution means the deduction to be made from the compensation of employees as provided in section 84-1308;

(27) Retirement means qualifying for and accepting the retirement benefit granted under the State Employees Retirement Act after terminating employment;

(28) Retirement board or board means the Public Employees Retirement Board;

(29) Retirement system means the State Employees Retirement System of the State of Nebraska;

(30) 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;

(31) 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;

(32) 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;

(33) 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 shall be the responsibility of the current employer 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 termination 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

(34) 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.  
Operative date July 1, 2011.

Cross References

For provisions on Public Employees Retirement Board, see sections 84-1501 to 84-1513.  
Spousal Pension Rights Act, see section 42-1101.

**84-1307 Retirement system; membership; requirements; composition; exercise of option to join; effect; new employee; participation in another governmental plan; how treated; separate employment; effect.**

(1) The membership of the retirement system shall be composed of all persons who are or were employed by the State of Nebraska and who maintain an account balance with the retirement system.

(2) The following employees of the State of Nebraska are authorized to participate in the retirement system: (a) All permanent full-time employees shall begin participation in the retirement system upon employment; and (b) all permanent part-time employees who have attained the age of eighteen years may exercise the option to begin participation in the retirement system. An employee who exercises the option to begin participation in the retirement system pursuant to this section shall remain in the retirement system until his or her termination of employment or retirement, regardless of any change of status as a permanent or temporary employee.

(3) On and after July 1, 2010, no employee shall be authorized to participate in the retirement system provided for in the State Employees Retirement Act unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

(4) For purposes of this section, (a) permanent full-time employees includes employees of the Legislature or Legislative Council who work one-half or more of the regularly scheduled hours during each pay period of the legislative session and (b) permanent part-time employees includes employees of the Legislature or Legislative Council who work less than one-half of the regularly scheduled hours during each pay period of the legislative session.

(5)(a) Within the first one hundred eighty days of employment, a full-time employee may apply to the board for vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee, as defined in the Nebraska governmental plan in which the credit was earned. The board may adopt and promulgate rules and regulations governing the assessment and granting of vesting credit.

(b) If the contributory retirement plan or contract let pursuant to section 48-609 is terminated, employees of the Department of Labor who are active participants in such contributory retirement plan or contract on the date of termination of such plan or contract shall be granted vesting credit for their years of participation in such plan or contract.

(6) Any employee who qualifies for membership in the retirement system pursuant to this section may not be disqualified for membership in the retirement system solely because such employee also maintains separate employment which qualifies the employee for membership in another public retirement system, nor may membership in this retirement system disqualify such an employee from membership in another public employment system solely by reason of separate employment which qualifies such employee for membership in this retirement system.

(7) State agencies shall ensure that employees authorized to participate in the retirement system pursuant to this section shall enroll and make required contributions to the retirement system immediately upon becoming an employee. Information necessary to determine membership in the retirement system shall be provided by the employer.

**Source:** Laws 1963, c. 532, § 7, p. 1670; Laws 1969, c. 842, § 1, p. 3177; Laws 1973, LB 492, § 1; Laws 1983, LB 219, § 1; Laws 1986, LB 325, § 16; Laws 1986, LB 311, § 30; Laws 1990, LB 834, § 1; Laws 1995, LB 501, § 11; Laws 1996, LB 1076, § 38; Laws 1997, LB 624, § 36; Laws 1998, LB 1191, § 71; Laws 1999, LB 703, § 21; Laws 2000, LB 1192, § 24; Laws 2002, LB 407, § 55; Laws 2002, LB 687, § 20; Laws 2004, LB 1097, § 33; Laws 2006, LB 366, § 8; Laws 2008, LB1147, § 13; Laws 2009, LB188, § 10; Laws 2010, LB950, § 21; Laws 2011, LB509, § 45.  
Operative date July 1, 2011.

**84-1309.02 Cash balance benefit; election; effect; administrative services agreements; authorized.**

(1) It is the intent of the Legislature that, in order to improve the competitiveness of the retirement plan for state employees, a cash balance benefit shall be added to the State Employees Retirement Act on and after January 1, 2003. Each member who is employed and participating in the retirement system prior to January 1, 2003, may either elect to continue participation in the defined contribution benefit as provided in the act prior to January 1, 2003, or elect to participate in the cash balance benefit as set forth in this section. The member shall make the election prior to January 1, 2003, or on or after November 1, 2007, but before January 1, 2008. If no election is made prior to January 1, 2003, or on or after November 1, 2007, but before January 1, 2008, the member shall be treated as though he or she elected to continue participating in the defined contribution benefit as provided in the act prior to January 1, 2003. Members who elect to participate in the cash balance benefit on or after November 1, 2007, but before January 1, 2008, shall commence participation in the cash balance benefit on January 1, 2008. Any member who made the election prior to January 1, 2003, does not have to reelect the cash balance benefit on or after November 1, 2007, but before January 1, 2008. A member employed and participating in the retirement system prior to January 1, 2003, who terminates employment on or after January 1, 2003, and returns to

employment prior to having a five-year break in service shall participate in the cash balance benefit as set forth in this section.

(2) For a member employed and participating in the retirement system beginning on and after January 1, 2003, or a member employed and participating in the retirement system on January 1, 2003, who, prior to January 1, 2003, or on or after November 1, 2007, but before January 1, 2008, elects to convert his or her employee and employer accounts to the cash balance benefit:

(a) Except as provided in subdivision (2)(b) of section 84-1321.01, the employee cash balance account shall, at any time, be equal to the following:

(i) The initial employee account balance, if any, transferred from the defined contribution plan account described in section 84-1310; plus

(ii) Employee contribution credits deposited in accordance with section 84-1308; plus

(iii) Interest credits credited in accordance with subdivision (18) of section 84-1301; plus

(iv) Dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319; and

(b) The employer cash balance account shall, at any time, be equal to the following:

(i) The initial employer account balance, if any, transferred from the defined contribution plan account described in section 84-1311; plus

(ii) Employer contribution credits deposited in accordance with section 84-1309; plus

(iii) Interest credits credited in accordance with subdivision (18) of section 84-1301; plus

(iv) Dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319.

(3) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees. The board may develop a schedule for the allocation of the administrative services agreements costs for accounting or record-keeping services and may assess the costs so that each member pays a reasonable fee as determined by the board.

**Source:** Laws 2002, LB 687, § 21; Laws 2003, LB 451, § 25; Laws 2005, LB 364, § 17; Laws 2006, LB 366, § 10; Laws 2006, LB 1019, § 16; Laws 2007, LB328, § 7; Laws 2009, LB188, § 11; Laws 2010, LB950, § 22; Laws 2011, LB509, § 46.

Operative date July 1, 2011.

**84-1313.02 Retirement system; transfer eligible rollover distribution; conditions.**

The retirement system may transfer any distribution of benefits to a member which is an eligible rollover distribution as defined in section 84-1312 in a direct rollover to the deferred compensation plan authorized under section 84-1504 if the following conditions are met:

- (1) The member has an amount of compensation deferred immediately after the rollover at least equal to the amount of compensation deferred immediately before the rollover;
- (2) The account of the member is valued as of the date of final account value;
- (3) The member is not eligible for additional annual deferrals in the receiving plan unless the member is performing services for the state; and
- (4) The deferred compensation plan provides for such rollovers.

**Source:** Laws 2009, LB188, § 12; Laws 2011, LB509, § 47.  
Operative date July 1, 2011.

**84-1321.01 Termination of employment; account forfeited; when; State Employer Retirement Expense Fund; created; investment.**

(1) For a member who has terminated employment and is not vested, the balance of the member's employer account or employer cash balance account shall be forfeited. The forfeited account shall be credited to the State Employees Retirement Fund and shall first be used to meet the expense charges incurred by the retirement board in connection with administering the retirement system, which charges shall be credited to the State Employees Defined Contribution Retirement Expense Fund, if the member participated in the defined contribution option, or to the State Employees Cash Balance Retirement Expense Fund, if the member participated in the cash balance option, and the remainder, if any, shall then be used to reduce the state contribution which would otherwise be required to fund future service retirement benefits or to restore employer accounts or employer cash balance accounts. No forfeited amounts shall be applied to increase the benefits any member would otherwise receive under the State Employees Retirement Act.

(2)(a) If a member ceases to be an employee due to the termination of his or her employment by the state and a grievance or other appeal of the termination is filed, transactions involving forfeiture of his or her employer account or employer cash balance account and, except as provided in subdivision (b) of this subsection, transactions for payment of benefits under sections 84-1317 and 84-1321 shall be suspended pending the final outcome of the grievance or other appeal.

(b) If a member elects to receive benefits payable under sections 84-1317 and 84-1321 after a grievance or appeal is filed, the member may receive an amount up to the balance of his or her employee account or member cash balance account or twenty-five thousand dollars payable from the employee account or member cash balance account, whichever is less.

(3) The State Employer Retirement Expense Fund is created. The fund shall be administered by the Public Employees Retirement Board. The fund shall be established and maintained separate from any funds held in trust for the benefit of members under the retirement system. The fund shall be used to meet expenses of the State Employees Retirement System of the State of Nebraska whether such expenses are incurred in administering the member's employer account or in administering the member's employer cash balance account when the funds available in the State Employees Defined Contribution Retirement Expense Fund or State Employees Cash Balance Retirement Expense Fund make such use reasonably necessary.

(4) The director of the Nebraska Public Employees Retirement Systems shall certify to the Accounting Administrator of the Department of Administrative Services when accumulated employer account forfeiture funds are available to reduce the state contribution which would otherwise be required to fund future service retirement benefits or to restore employer accounts or employer cash balance accounts referred to in subsection (1) of this section. Following such certification, the Accounting Administrator shall transfer the amount reduced from the state contribution from the Imprest Payroll Distributive Fund to the State Employer Retirement Expense Fund. Expenses incurred as a result of the state depositing amounts into the State Employer Retirement Expense Fund shall be deducted prior to any additional expenses being allocated. Any remaining amount shall be allocated in accordance with subsection (3) of this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 1997, LB 624, § 40; Laws 2000, LB 1200, § 8; Laws 2002, LB 687, § 29; Laws 2003, LB 451, § 32; Laws 2005, LB 364, § 19; Laws 2007, LB328, § 10; Laws 2010, LB950, § 26; Laws 2011, LB509, § 48.  
Operative date July 1, 2011.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

**84-1322 Employees; reemployment; status; how treated; reinstatement; repay amount received.**

(1) Except as otherwise provided in this section, a member of the retirement system who has a five-year break in service shall upon reemployment be considered a new employee with respect to the State Employees Retirement Act and shall not receive credit for service prior to his or her reemployment date.

(2)(a) A member who ceases to be an employee before becoming eligible for retirement under section 84-1317 and again becomes a permanent full-time or permanent part-time state employee prior to having a five-year break in service shall immediately be reenrolled in the retirement system and resume making contributions. For purposes of vesting employer contributions made prior to and after reentry into the retirement system under subsection (3) of section 84-1321, years of participation include years of participation prior to such employee's original termination. For a member who is not vested and has received a termination benefit pursuant to section 84-1321, the years of participation prior to such employee's original termination shall be limited in a ratio equal to the amount that the member repays divided by the termination benefit withdrawn pursuant to section 84-1321. This subsection shall apply whether or not the person was a state employee on April 20, 1986, or July 17, 1986.

(b) The reemployed member may repay the value of, or a portion of the value of, the termination benefit withdrawn pursuant to section 84-1321. A reemployed member who elects to repay all or a portion of the value of the termination benefit withdrawn pursuant to section 84-1321 shall repay the actual earnings on such value. Repayment of the termination benefit shall commence within three years after reemployment and shall be completed within five years after reemployment or prior to termination of employment,



whichever occurs first, through (i) direct payments to the retirement system, (ii) installment payments made pursuant to a binding irrevocable payroll deduction authorization made by the member, (iii) an eligible rollover distribution as provided under the Internal Revenue Code, or (iv) a direct rollover distribution made in accordance with section 401(a)(31) of the Internal Revenue Code.

(c) The value of the member's forfeited employer account or employer cash balance account, as of the date of forfeiture, shall be restored in a ratio equal to the amount of the benefit that the member has repaid divided by the termination benefit received. The employer account or employer cash balance account shall be restored first out of the current forfeiture amounts and then by additional employer contributions.

(3) For a member who retired pursuant to section 84-1317 and becomes a permanent full-time employee or permanent part-time employee with the state more than one hundred twenty days after his or her retirement date, the member shall continue receiving retirement benefits. Such a retired member or a retired member who received a lump-sum distribution of his or her benefit shall be considered a new employee as of the date of reemployment and shall not receive credit for any service prior to the member's retirement for purposes of the act.

(4) A member who is reinstated as an employee pursuant to a grievance or appeal of his or her termination by the state shall be a member upon reemployment and shall not be considered to have a break in service for such period of time that the grievance or appeal was pending. Following reinstatement, the member shall repay the value of the amount received from his or her employee account or member cash balance account under subdivision (2)(b) of section 84-1321.01.

**Source:** Laws 1963, c. 532, § 22, p. 1676; Laws 1986, LB 325, § 21; Laws 1986, LB 311, § 36; Laws 1991, LB 549, § 72; Laws 1997, LB 624, § 41; Laws 1999, LB 703, § 24; Laws 2002, LB 407, § 60; Laws 2002, LB 687, § 30; Laws 2003, LB 451, § 33; Laws 2004, LB 1097, § 35; Laws 2007, LB328, § 11; Laws 2008, LB1147, § 16; Laws 2011, LB509, § 49.  
Operative date July 1, 2011.

## ARTICLE 14

### PUBLIC MEETINGS

#### Section

84-1409. Terms, defined.

84-1410. Closed session; when; purpose; reasons listed; procedure; right to challenge; prohibited acts; chance meetings, conventions, or workshops.

#### **84-1409 Terms, defined.**

For purposes of the Open Meetings Act, unless the context otherwise requires:

(1)(a) Public body means (i) governing bodies of all political subdivisions of the State of Nebraska, (ii) governing bodies of all agencies, created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (iv) all study or

advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (v) advisory committees of the bodies referred to in subdivisions (i), (ii), and (iii) of this subdivision, and (vi) instrumentalities exercising essentially public functions; and

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, except that all meetings of any subcommittee established under section 81-15,175 are subject to the Open Meetings Act, and (ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders;

(2) Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Videoconferencing means conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations.

**Source:** Laws 1975, LB 325, § 2; Laws 1983, LB 43, § 1; Laws 1989, LB 429, § 42; Laws 1989, LB 311, § 14; Laws 1992, LB 1019, § 124; Laws 1993, LB 635, § 1; Laws 1996, LB 1044, § 978; Laws 1997, LB 798, § 37; Laws 2004, LB 821, § 36; Laws 2007, LB296, § 810; Laws 2011, LB366, § 2.  
Effective date August 27, 2011.

**84-1410 Closed session; when; purpose; reasons listed; procedure; right to challenge; prohibited acts; chance meetings, conventions, or workshops.**

(1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct;

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting; or

(e) For the Community Trust created under section 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster.

Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(2) The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

(3) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (a) the protection of the public interest or (b) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.

(5) The act does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

**Source:** Laws 1975, LB 325, § 3; Laws 1983, LB 43, § 2; Laws 1985, LB 117, § 1; Laws 1992, LB 1019, § 125; Laws 1994, LB 621, § 1; Laws 1996, LB 900, § 1072; Laws 2004, LB 821, § 37; Laws 2004, LB 1179, § 1; Laws 2006, LB 898, § 1; Laws 2011, LB390, § 29.

Operative date May 27, 2011.

## ARTICLE 15

### PUBLIC EMPLOYEES RETIREMENT BOARD

#### Section

- 84-1501. Public Employees Retirement Board; created; members; qualifications; appointment; terms; expenses; removal.  
84-1503. Board; duties.

## Section

84-1511. Board; establish preretirement planning program; for whom; required information; funding; attendance; fee.

**84-1501 Public Employees Retirement Board; created; members; qualifications; appointment; terms; expenses; removal.**

(1) The Public Employees Retirement Board is hereby established.

(2)(a) The board shall consist of eight appointed members as described in this subsection and the state investment officer as a nonvoting, ex officio member. Six of the appointed members shall be active or retired participants in the retirement systems administered by the board, and two of the appointed members (i) shall not be employees of the State of Nebraska or any of its political subdivisions and (ii) shall have at least ten years of experience in the management of a public or private organization or have at least five years of experience in the field of actuarial analysis or the administration of an employee benefit plan.

(b) The six appointed members who are participants in the systems shall be as follows:

(i) Two of the appointed members shall be participants in the School Employees Retirement System of the State of Nebraska and shall include one administrator and one teacher;

(ii) One of the appointed members shall be a participant in the Nebraska Judges Retirement System as provided in the Judges Retirement Act;

(iii) One of the appointed members shall be a participant in the Nebraska State Patrol Retirement System;

(iv) One of the appointed members shall be a participant in the Retirement System for Nebraska Counties; and

(v) One of the appointed members shall be a participant in the State Employees Retirement System of the State of Nebraska.

(c) Appointments to the board shall be made by the Governor and shall be subject to the approval of the Legislature. All appointed members shall be citizens of the State of Nebraska.

(3) All members shall serve for terms of five years or until a successor has been appointed and qualified. The terms shall begin on January 1 of the appropriate year. The members of the board shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. The appointed members of the board may be removed by the Governor for cause after notice and an opportunity to be heard.

**Source:** Laws 1971, LB 987, § 1; Laws 1973, LB 250, § 1; Laws 1975, LB 36, § 1; Laws 1981, LB 204, § 216; Laws 1987, LB 59, § 1; Laws 1989, LB 418, § 1; Laws 1996, LB 847, § 51; Laws 1997, LB 623, § 46; Laws 2004, LB 1097, § 38; Laws 2005, LB 364, § 20; Laws 2011, LB509, § 50.

Operative date July 1, 2011.

**Cross References**

**Judges Retirement Act**, see section 24-701.01.

**84-1503 Board; duties.**

(1) It shall be the duty of the Public Employees Retirement Board:

(a) To administer the retirement systems provided for in the County Employees Retirement Act, the Judges Retirement Act, the Nebraska State Patrol Retirement Act, the School Employees Retirement Act, and the State Employees Retirement Act. The agency for the administration of the retirement systems and under the direction of the board shall be known and may be cited as the Nebraska Public Employees Retirement Systems;

(b) To appoint a director to administer the systems under the direction of the board. The appointment shall be subject to the approval of the Governor and a majority of the Legislature. The director shall be qualified by training and have at least five years of experience in the administration of a qualified public or private employee retirement plan. The director shall not be a member of the board. The salary of the director shall be set by the board. The director shall serve without term and may be removed by the board;

(c) To provide for an equitable allocation of expenses among the retirement systems administered by the board, and all expenses shall be provided from the investment income earned by the various retirement funds unless alternative sources of funds to pay expenses are specified by law;

(d) To administer the deferred compensation program authorized in section 84-1504;

(e) To hire an attorney, admitted to the Nebraska State Bar Association, to advise the board in the administration of the retirement systems listed in subdivision (a) of this subsection;

(f) To hire an internal auditor to perform the duties described in section 84-1503.04 who meets the minimum standards as described in section 84-304.03;

(g) To adopt and implement procedures for reporting information by employers, as well as testing and monitoring procedures in order to verify the accuracy of such information. The information necessary to determine membership shall be provided by the employer. The board shall adopt and promulgate rules and regulations and prescribe such forms necessary to carry out this subdivision. Nothing in this subdivision shall be construed to require the board to conduct onsite audits of political subdivisions for compliance with statutes, rules, and regulations governing the retirement systems listed in subdivision (1)(a) of this section regarding membership and contributions; and

(h) To prescribe and furnish forms for the public retirement system plan reports required to be filed pursuant to sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987.

(2) In administering the retirement systems listed in subdivision (1)(a) of this section, it shall be the duty of the board:

(a) To determine, based on information provided by the employer, the prior service annuity, if any, for each person who is an employee of the county on the date of adoption of the retirement system;

(b) To determine the eligibility of an individual to be a member of the retirement system and other questions of fact in the event of a dispute between an individual and the individual's employer;

(c) To adopt and promulgate rules and regulations for the management of the board;

(d) To keep a complete record of all proceedings taken at any meeting of the board;

(e) To obtain, by a competitive, formal, and sealed bidding process through the materiel division of the Department of Administrative Services, actuarial services on behalf of the State of Nebraska as may be necessary in the administration and development of the retirement systems. Any contract for actuarial services shall contain a provision allowing the actuary, without prior approval of the board, to perform actuarial studies of the systems as requested by entities other than the board, if notice, which does not identify the entity or substance of the request, is given to the board, all costs are paid by the requesting entity, results are provided to the board, the Nebraska Retirement Systems Committee of the Legislature, and the Legislative Fiscal Analyst upon being made public, and such actuarial studies do not interfere with the actuary's ongoing responsibility to the board. The term of the contract shall be for up to three years. A competitive, formal, and sealed bidding process shall be completed at least once every three years, unless the board determines that such a process would not be cost effective under the circumstances and that the actuarial services performed have been satisfactory, in which case the contract may also contain an option for renewal without a competitive, formal, and sealed bidding process for up to three additional years. An actuary under contract for the State of Nebraska shall be a member of the American Academy of Actuaries;

(f) To direct the State Treasurer to transfer funds, as an expense of the retirement systems, to the Legislative Council Retirement Study Fund. Such transfer shall occur beginning on or after July 1, 2005, and at intervals of not less than five years and not more than fifteen years and shall be in such amounts as the Legislature shall direct;

(g) To adopt and promulgate rules and regulations to carry out the provisions of each retirement system described in subdivision (1)(a) of this section, which shall include, but not be limited to, the crediting of military service, direct rollover distributions, and the acceptance of rollovers;

(h) To obtain, by a competitive, formal, and sealed bidding process through the materiel division of the Department of Administrative Services, auditing services for a separate compliance audit of the retirement systems to be completed by December 31, 2012, and from time to time thereafter at the request of the Nebraska Retirement Systems Committee of the Legislature, to be completed not more than every four years but not less than every ten years. The compliance audit shall be in addition to the annual audit conducted by the Auditor of Public Accounts. The compliance audit shall include, but not be limited to, an examination of records, files, and other documents and an evaluation of all policies and procedures to determine compliance with all state and federal laws. A copy of the compliance audit shall be given to the Governor, the board, and the Nebraska Retirement Systems Committee of the Legislature and shall be presented to the committee at a public hearing;

(i) To adopt and promulgate rules and regulations for the adjustment of contributions or benefits, which shall include, but not be limited to: (i) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (ii) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment to contributions or benefits; and (iii) notice provided to

all affected persons. All notices shall be sent prior to an adjustment and shall describe the process for disputing an adjustment to contributions or benefits; and

(j) To administer all retirement system plans in a manner which will maintain each plan's status as a qualified plan pursuant to the Internal Revenue Code. The board shall adopt and promulgate rules and regulations necessary or appropriate to maintain such status including, but not limited to, rules or regulations which restrict discretionary or optional contributions to a plan or which limit distributions from a plan.

(3) By March 31 of each year, the board shall prepare a written plan of action and shall present such plan to the Nebraska Retirement Systems Committee of the Legislature at a public hearing. The plan shall include, but not be limited to, the board's funding policy, the administrative costs and other fees associated with each fund and plan overseen by the board, member education and informational programs, the director's duties and limitations, an organizational structure of the office of the Nebraska Public Employees Retirement Systems, and the internal control structure of such office to ensure compliance with state and federal laws.

**Source:** Laws 1971, LB 987, § 3; Laws 1973, LB 216, § 3; Laws 1973, LB 498, § 10; Laws 1979, LB 416, § 3; Laws 1983, LB 70, § 1; Laws 1984, LB 751, § 13; Laws 1986, LB 311, § 40; Laws 1987, LB 549, § 14; Laws 1988, LB 1170, § 22; Laws 1991, LB 549, § 74; Laws 1992, LB 672, § 33; Laws 1994, LB 833, § 54; Laws 1994, LB 1306, § 11; Laws 1995, LB 502, § 3; Laws 1996, LB 847, § 52; Laws 1996, LB 1076, § 44; Laws 1998, LB 1191, § 78; Laws 1999, LB 849, § 33; Laws 2000, LB 1192, § 25; Laws 2001, LB 808, § 21; Laws 2002, LB 407, § 63; Laws 2003, LB 451, § 35; Laws 2005, LB 503, § 19; Laws 2011, LB474, § 14; Laws 2011, LB509, § 51.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB474, section 14, with LB509, section 51, to reflect all amendments.

**Note:** Changes made by LB509 became operative July 1, 2011. Changes made by LB474 became effective August 27, 2011.

#### Cross References

**County Employees Retirement Act**, see section 23-2331.

**Judges Retirement Act**, see section 24-701.01.

**Nebraska State Patrol Retirement Act**, see section 81-2014.01.

**School Employees Retirement Act**, see section 79-901.

**State Employees Retirement Act**, see section 84-1331.

### **84-1511 Board; establish preretirement planning program; for whom; required information; funding; attendance; fee.**

(1) The Public Employees Retirement Board shall establish a comprehensive preretirement planning program for state patrol officers, state employees, judges, county employees, and school employees who are members of the retirement systems established pursuant to the County Employees Retirement Act, the Judges Retirement Act, the School Employees Retirement Act, the Nebraska State Patrol Retirement Act, and the State Employees Retirement Act. The program shall provide information and advice regarding the many changes employees face upon retirement, including, but not limited to, changes in physical and mental health, housing, family life, leisure activity, and retirement income.

(2) The preretirement planning program shall be available to all employees who have attained the age of fifty years or are within five years of qualifying for retirement or early retirement under their retirement systems.

(3) The preretirement planning program shall include information on the federal and state income tax consequences of the various annuity or retirement benefit options available to the employee, information on social security benefits, information on various local, state, and federal government programs and programs in the private sector designed to assist elderly persons, and information and advice the board deems valuable in assisting public employees in the transition from public employment to retirement.

(4) The board shall work with the Department of Health and Human Services, the personnel division of the Department of Administrative Services, employee groups, and any other governmental agency, including political subdivisions or bodies whose services or expertise may enhance the development or implementation of the preretirement planning program.

(5) Funding to cover the expense of the preretirement planning program shall be charged back to each retirement fund on a pro rata share based on the number of employees in each plan.

(6) The employer shall provide each eligible employee leave with pay to attend up to two preretirement planning programs. For purposes of this subsection, leave with pay shall mean a day off paid by the employer and shall not mean vacation, sick, personal, or compensatory time. An employee may choose to attend a program more than twice, but such leave shall be at the expense of the employee and shall be at the discretion of the employer. An eligible employee shall not be entitled to attend more than one preretirement planning program per fiscal year prior to actual election of retirement.

(7) A nominal registration fee shall be charged each person attending a preretirement planning program to cover the costs for meals, meeting rooms, or other expenses incurred under such program.

**Source:** Laws 1986, LB 311, § 1; Laws 1992, Third Spec. Sess., LB 14, § 31; Laws 1995, LB 369, § 9; Laws 1996, LB 900, § 1076; Laws 1996, LB 1044, § 979; Laws 1997, LB 624, § 44; Laws 1998, LB 497, § 29; Laws 2011, LB509, § 52.

Operative date July 1, 2011.

#### Cross References

**County Employees Retirement Act**, see section 23-2331.

**Judges Retirement Act**, see section 24-701.01.

**Nebraska State Patrol Retirement Act**, see section 81-2014.01.

**School Employees Retirement Act**, see section 79-901.

**State Employees Retirement Act**, see section 84-1331.



## CHAPTER 85

### STATE UNIVERSITY, STATE COLLEGES, AND POSTSECONDARY EDUCATION

## Article.

1. University of Nebraska. 85-103.01 to 85-1,123.
2. Research Facilities. 85-209 to 85-215.
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  - (a) Coordinating Commission for Postsecondary Education Act. 85-1412, 85-1418.
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## ARTICLE 1

## UNIVERSITY OF NEBRASKA

## Section

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| 85-103.01.   | University of Nebraska; Board of Regents; districts; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties. |
| 85-103.02.   | University of Nebraska; Board of Regents; population figures and maps; basis.  |
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| 85-192.      | University of Nebraska at Omaha Cash Fund; University of Nebraska at Omaha Trust Fund; created; purposes; disbursements; investment.             |
| 85-1,104.01. | Repealed. Laws 2011, LB 334, § 11.   |
| 85-1,123.    | University of Nebraska at Kearney Cash Fund; University of Nebraska at Kearney Trust Fund; created; use; investment.                             |

**85-103.01 University of Nebraska; Board of Regents; districts; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties.**

(1) For the purpose of section 85-103, the state is divided into eight districts. Each district shall be entitled to one regent on the board.

(2) The numbers and boundaries of the districts are designated and established by maps identified and labeled as maps REG11-1, REG11-2, REG11-3, REG11-4, REG11-5, REG11-5A, REG11-6, REG11-7, and REG11-8, filed with the Clerk of the Legislature, and incorporated by reference as part of Laws 2011, LB701.

(3)(a) The Clerk of the Legislature shall transfer possession of the maps referred to in subsection (2) of this section to the Secretary of State on May 27, 2011.

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(b) When questions of interpretation of district boundaries arise, the maps referred to in subsection (2) of this section in possession of the Secretary of State shall serve as the indication of the legislative intent in drawing the district boundaries.

(c) Each election commissioner or county clerk shall obtain copies of the maps referred to in subsection (2) of this section for the election commissioner's or clerk's county from the Secretary of State.

(d) The Secretary of State shall also have available for viewing on his or her web site the maps referred to in subsection (2) of this section identifying the boundaries for the districts.

**Source:** Laws 1969, c. 847, § 3, p. 3189; Laws 1971, LB 1035, § 2; Laws 1981, LB 553, § 1; Laws 1991, LB 617, § 2; Laws 2001, LB 854, § 2; Laws 2011, LB701, § 1.  
Effective date May 27, 2011.

**Cross References**

**Constitutional provisions,** see Article VII, section 10, Constitution of Nebraska.

**85-103.02 University of Nebraska; Board of Regents; population figures and maps; basis.**

For purposes of section 85-103.01, the Legislature adopts the official population figures and maps from the 2010 Census Redistricting (Public Law 94-171) TIGER/Line Shapefiles published by the United States Department of Commerce, Bureau of the Census.

**Source:** Laws 1971, LB 1035, § 3; Laws 1981, LB 553, § 2; Laws 1991, LB 617, § 3; Laws 2001, LB 854, § 3; Laws 2011, LB701, § 2.  
Effective date May 27, 2011.

**85-122 University funds; designation; investment; disbursements; travel expenses.**

The several funds for the support of the university shall be constituted and designated as follows: (1) The Permanent Endowment Fund; (2) the Temporary University Fund; (3) the University Cash Fund; (4) the United States Morrill Fund; (5) the United States Experiment Station Fund; (6) the University Trust Fund; (7) the United States Agricultural Extension Fund; (8) the Veterinary School Fund; (9) the University of Nebraska at Omaha Cash Fund; (10) the University of Nebraska at Omaha Trust Fund; (11) the University of Nebraska at Kearney Cash Fund; (12) the University of Nebraska at Kearney Trust Fund; (13) the Agricultural Field Laboratory Fund; (14) the Animal Research and Diagnosis Revolving Fund; (15) the University Buildings Renovation and Land Acquisition Fund; (16) the University Facility Improvement Fund; (17) the University of Nebraska Eppley Science Hall Construction Fund; and (18) the University Facilities Fund. No portion of the funds designated above derived from taxation shall be disbursed for mileage or other traveling expenses except as authorized by sections 81-1174 to 81-1177. No expenditures shall be made for or on behalf of the School of Veterinary Medicine and Surgery except from money appropriated to the Veterinary School Fund. Any money in the funds designated in this section 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 except as provided in sections 85-125, 85-192, and 85-1,123.

**Source:** Laws 1869, § 21, p. 177; Laws 1877, § 1, p. 57; Laws 1899, c. 76, § 1, p. 325; R.S.1913, § 7100; C.S.1922, § 6732; C.S.1929, § 85-118; Laws 1933, c. 96, § 23, p. 400; Laws 1941, c. 180, § 11, p. 707; C.S.Supp.,1941, § 85-118; R.S.1943, § 85-122; Laws 1945, c. 257, § 1, p. 797; Laws 1949, c. 312, § 1, p. 1030; Laws 1951, c. 344, § 1, p. 1131; Laws 1955, c. 350, § 5, p. 1072; Laws 1969, c. 584, § 122, p. 2425; Laws 1983, LB 410, § 2; Laws 1986, LB 842, § 2; Laws 1987, LB 218, § 2; Laws 1988, LB 864, § 67; Laws 1989, LB 247, § 20; Laws 1990, LB 1220, § 2; Laws 1992, Third Spec. Sess., LB 9, § 2; Laws 1994, LB 1066, § 135; Laws 2011, LB378, § 31.  
Effective date May 18, 2011.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

**85-125 University Cash Fund; source; use; investment.**

The University Cash Fund shall consist of the matriculation and diploma fees, registration fees, laboratory fees, tuition fees, summer session or school fees, all other money or fees collected from students by the authority of the Board of Regents for university purposes, and receipts from all university activities collected by the board in connection with the operation of the university. A record shall be kept by the board separating such money into appropriate and convenient accounts. All money and funds accruing to the University Cash Fund shall be used for the maintenance and operation of the university and its activities and shall at all times be subject to the orders of the Board of Regents accordingly. The fund shall be in the custody of the State Treasurer, and 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, except that there may be retained by the Board of Regents a sum not to exceed two percent of the fund, which shall be available to make settlement and equitable adjustments to students entitled thereto, to carry on university activities contributing to the fund, and to provide for contingencies. No warrant shall be issued against such fund unless there is money in the hands of the State Treasurer sufficient to pay the same.

**Source:** Laws 1869, § 21, p. 177; Laws 1877, § 1, p. 57; Laws 1899, c. 76, § 1, p. 325; R.S.1913, § 7103; C.S.1922, § 6735; C.S.1929, § 85-121; R.S.1943, § 85-125; Laws 1949, c. 313, § 1, p. 1031; Laws 1967, c. 623, § 1, p. 2087; Laws 1979, LB 248, § 1; Laws 1985, LB 151, § 1; Laws 2011, LB378, § 32.  
Effective date May 18, 2011.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

**85-192 University of Nebraska at Omaha Cash Fund; University of Nebraska at Omaha Trust Fund; created; purposes; disbursements; investment.**

There is hereby created a University of Nebraska at Omaha Cash Fund which shall consist of all fees and other money collected from students at the University of Nebraska at Omaha by authority of the Board of Regents of the University of Nebraska for university purposes, all receipts from all university activities at the University of Nebraska at Omaha collected in connection with the operation of such university, and the money and funds received at the time the University of Nebraska at Omaha was established. A record shall be kept separating such money and funds into appropriate and convenient accounts. All money and funds accruing to the cash fund shall be used for the maintenance and operation of the University of Nebraska at Omaha and shall at all times be subject to the orders of the Board of Regents. The fund shall be in the custody of the State Treasurer, and any money in such fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that there may be retained at the University of Nebraska at Omaha a sum not to exceed two percent of the fund, which shall be available to make settlement and equitable adjustments to students entitled thereto, to carry on university activities contributing to the fund, and to provide for contingencies. No warrant shall be issued against such fund unless there is money sufficient to pay the same.

There is hereby created a University of Nebraska at Omaha Trust Fund which shall consist of all property, real or personal, now or hereafter acquired by or for the municipal University of Omaha by donation or bequest to it, which property shall be held and applied in the manner and according with the provisions of the will, deed, or instrument making such donation or bequest. All future donations or bequests to or for the University of Nebraska at Omaha shall be a part of such trust fund. Such trust fund shall be held and managed in such manner as the Board of Regents shall determine. Such holdings and management shall be in strict accordance with all terms of the donation or bequest, but in the absence of any investment instructions the funds may be invested by or at the direction of the Board of Regents in such investments as are authorized for trustees, guardians, personal representatives, or administrators under the laws of Nebraska. Any money in such fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 1967, c. 620, § 11, p. 2081; Laws 1969, c. 584, § 128, p. 2428; Laws 1985, LB 151, § 2; Laws 1988, LB 802, § 39; Laws 1995, LB 7, § 152; Laws 2011, LB378, § 33.  
Effective date May 18, 2011.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

**85-1,104.01 Repealed. Laws 2011, LB 334, § 11.**

**85-1,123 University of Nebraska at Kearney Cash Fund; University of Nebraska at Kearney Trust Fund; created; use; investment.**

(1) There is hereby created the University of Nebraska at Kearney Cash Fund. The fund shall consist of all fees and other money collected from students at the University of Nebraska at Kearney by authority of the Board of Regents of the University of Nebraska for university purposes, all receipts from all university activities at the University of Nebraska at Kearney collected in connection with the operation of such university, and the money and funds received at the time

the University of Nebraska at Kearney was established. A record shall be kept separating the money and funds into appropriate and convenient accounts. All money and funds accruing to the fund shall be used for the maintenance and operation of the University of Nebraska at Kearney and shall at all times be subject to the orders of the Board of Regents. The fund shall be in the custody of the State Treasurer, and any money in such fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that there may be retained at the University of Nebraska at Kearney a sum not to exceed two percent of the fund, which shall be available to make settlement and equitable adjustments to students entitled thereto, to carry on university activities contributing to the fund, and to provide for contingencies. No warrant shall be issued against the fund unless there is money sufficient to pay the same.

(2) There is hereby created the University of Nebraska at Kearney Trust Fund, which fund shall consist of all property, real or personal, acquired as of July 1, 1991, or at any time thereafter by or for Kearney State College by donation or bequest to it, which property shall be held and applied in the manner and according with the provisions of the will, deed, or instrument making such donation or bequest. All future donations or bequests to the University of Nebraska at Kearney shall be a part of such fund. The fund shall be held and managed in such manner as the Board of Regents shall determine. The holdings and management shall be in strict accordance with all terms of the donation or bequest, except that in the absence of any investment instructions, the funds may be invested by or at the direction of the Board of Regents in such investments as are authorized for trustees, guardians, personal representatives, or administrators under the laws of Nebraska.

**Source:** Laws 1989, LB 247, § 11; Laws 2011, LB378, § 34.  
Effective date May 18, 2011.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

**ARTICLE 2**

**RESEARCH FACILITIES**

**Section**

85-209. Repealed. Laws 2011, LB 334, § 11.

85-210. Repealed. Laws 2011, LB 334, § 11.

85-211. Repealed. Laws 2011, LB 334, § 11.

85-212. Repealed. Laws 2011, LB 334, § 11.

85-214. Research and extension centers; control; employees; compensation.

85-215. Research and extension centers; income; use.

**85-209 Repealed. Laws 2011, LB 334, § 11.**

**85-210 Repealed. Laws 2011, LB 334, § 11.**

**85-211 Repealed. Laws 2011, LB 334, § 11.**

**85-212 Repealed. Laws 2011, LB 334, § 11.**

**85-214 Research and extension centers; control; employees; compensation.**

The Board of Regents shall have control and supervision of the research and extension centers established by sections 85-201 and 85-206 and shall appoint skillful superintendents and such other employees as to it appears necessary to obtain the best results. The board shall fix the salaries and compensation of employees and establish such rules and regulations as it may from time to time deem best.

**Source:** Laws 1903, c. 114, § 3, p. 591; Laws 1909, c. 143, § 3, p. 501; Laws 1909, c. 144, § 3, p. 503; R.S.1913, § 7145; C.S.1922, § 6795; Laws 1929, c. 15, § 2, p. 96; C.S.1929, § 85-211; R.S. 1943, § 85-214; Laws 1959, c. 461, § 1, p. 1529; Laws 1991, LB 663, § 82; Laws 2011, LB334, § 7.  
Effective date March 11, 2011.

**85-215 Research and extension centers; income; use.**

The proceeds arising from the sale of products of the research and extension centers provided for in sections 85-201 and 85-206 shall be applied to the liquidation of the running expenses of the research and extension centers from which they are sold, and all money so accruing shall be credited as coming from the state and be applied as a part or whole payment of any amount which may be appropriated from the funds of the state for the maintenance of such research and extension centers.

**Source:** Laws 1903, c. 114, § 5, p. 591; Laws 1909, c. 143, § 5, p. 502; Laws 1909, c. 144, § 5, p. 503; R.S.1913, § 7146; C.S.1922, § 6796; Laws 1929, c. 15, § 4, p. 96; C.S.1929, § 85-212; R.S. 1943, § 85-215; Laws 1959, c. 461, § 2, p. 1529; Laws 1991, LB 663, § 83; Laws 2011, LB334, § 8.  
Effective date March 11, 2011.

**ARTICLE 9**

**POSTSECONDARY EDUCATION**

(b) ROLE AND MISSION ASSIGNMENTS

Section

- 85-943. University of Nebraska; associate degree, diploma, and certificate; programs authorized; conditions; exception.  
85-961. Community colleges; responsibility for courses at associate-degree level or below.

(b) ROLE AND MISSION ASSIGNMENTS

**85-943 University of Nebraska; associate degree, diploma, and certificate; programs authorized; conditions; exception.**

The University of Nebraska may continue to offer the associate degree, diploma, and certificate in agriculturally related fields, radiologic technology, radiation therapy, nuclear medicine technology, and engineering technology if approved by the Coordinating Commission for Postsecondary Education pursuant to sections 85-1413 and 85-1414 upon the demonstration of a compelling need and unique capacity by the university to offer such programs. The University of Nebraska shall not offer associate degrees or less than associate-degree-level diplomas or certificates in other than authorized and approved programs. If approved by the Coordinating Commission for Postsecondary

Education pursuant to sections 85-1413 and 85-1414, the University of Nebraska may offer certificates within fields in addition to those specified in this section if the preponderance of courses comprising those certificates are above the associate-degree level.

**Source:** Laws 1978, LB 756, § 27; Laws 1988, LB 890, § 1; Laws 1991, LB 663, § 91; Laws 2003, LB 7, § 3; Laws 2011, LB637, § 27.  
Effective date May 5, 2011.

**85-961 Community colleges; responsibility for courses at associate-degree level or below.**

The community colleges shall have, except in specified program areas authorized by statute and the Coordinating Commission for Postsecondary Education, sole responsibility for the award of associate degrees, diplomas, and certificates comprised of courses at the associate-degree level or below and approved by the commission pursuant to sections 85-1413 and 85-1414.

**Source:** Laws 1978, LB 756, § 45; Laws 1991, LB 663, § 102; Laws 2011, LB637, § 28.  
Effective date May 5, 2011.

**ARTICLE 10**

**NEBRASKA SAFETY CENTER**

Section

85-1005. Nebraska Safety Center; operation; funding.

**85-1005 Nebraska Safety Center; operation; funding.**

(1) The Board of Regents of the University of Nebraska may accept and administer, in accordance with proper financial procedures at the University of Nebraska at Kearney, gifts, grants, tuition, fees, and private funds to assist in the operation of the center.

(2) The Board of Regents of the University of Nebraska may request an appropriation from the General Fund to assist in the operation of the center to promote the purposes of sections 85-1001 to 85-1008.

**Source:** Laws 1978, LB 693, § 5; Laws 1989, LB 247, § 31; Laws 1994, LB 683, § 13; Laws 2011, LB334, § 9.  
Effective date March 11, 2011.

**ARTICLE 11**

**HIGHER EDUCATION**

(a) OUT-OF-STATE INSTITUTIONS

Section

85-1101. Repealed. Laws 2011, LB 637, § 35.  
85-1102. Repealed. Laws 2011, LB 637, § 35.  
85-1103. Repealed. Laws 2011, LB 637, § 35.  
85-1103.01. Repealed. Laws 2011, LB 637, § 35.  
85-1103.02. Repealed. Laws 2011, LB 637, § 35.  
85-1104. Repealed. Laws 2011, LB 637, § 35.

(b) PRIVATE COLLEGES

85-1105. Repealed. Laws 2011, LB 637, § 35.  
85-1106. Repealed. Laws 2011, LB 637, § 35.  
85-1107. Repealed. Laws 2011, LB 637, § 35.

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Section

- 85-1108. Repealed. Laws 2011, LB 637, § 35.
- 85-1109. Repealed. Laws 2011, LB 637, § 35.
- 85-1110. Repealed. Laws 2011, LB 637, § 35.
- 85-1110.01. Repealed. Laws 2011, LB 637, § 35.
- 85-1111. Repealed. Laws 2011, LB 637, § 35.

(a) OUT-OF-STATE INSTITUTIONS

**85-1101 Repealed. Laws 2011, LB 637, § 35.**

**85-1102 Repealed. Laws 2011, LB 637, § 35.**

**85-1103 Repealed. Laws 2011, LB 637, § 35.**

**85-1103.01 Repealed. Laws 2011, LB 637, § 35.**

**85-1103.02 Repealed. Laws 2011, LB 637, § 35.**

**85-1104 Repealed. Laws 2011, LB 637, § 35.**

(b) PRIVATE COLLEGES

**85-1105 Repealed. Laws 2011, LB 637, § 35.**

**85-1106 Repealed. Laws 2011, LB 637, § 35.**

**85-1107 Repealed. Laws 2011, LB 637, § 35.**

**85-1108 Repealed. Laws 2011, LB 637, § 35.**

**85-1109 Repealed. Laws 2011, LB 637, § 35.**

**85-1110 Repealed. Laws 2011, LB 637, § 35.**

**85-1110.01 Repealed. Laws 2011, LB 637, § 35.**

**85-1111 Repealed. Laws 2011, LB 637, § 35.**

**ARTICLE 14**

**COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION**

(a) COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION ACT

Section

- 85-1412. Commission; additional powers and duties.
- 85-1418. Program or capital construction project; state funds; restrictions on use; district court of Lancaster County; jurisdiction; appeals; procedure.

(a) COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION ACT

**85-1412 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



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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;

(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 the Access College Early Scholarship Program Act, the Nebraska Opportunity Grant Act, and the Postsecondary Institution Act;

(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;

(10) Provide staff support for interstate compacts on postsecondary education;

(11) Request inclusion of the commission in any existing grant review process and information system; and

(12) In collaboration with the State Department of Education, public and private postsecondary educational institutions, private, denominational, or parochial secondary schools, educational service units, and school districts, conduct a study regarding the need for uniform policies and practices for dual-enrollment courses and career academies in Nebraska, including transferability of dual-enrollment courses and consistency of administration of career academies. The study shall also include a review of any program that provides Nebraska high school students with the opportunity to earn college credit or advanced placement through participation in courses and examinations administered by a not-for-profit organization and of the need for uniform policies and practices related to the acceptance and transferability of such courses and the college credit or advanced placement earned as a result of a student's performance on such examinations. The commission shall report the findings of such study and its recommendations, including recommendations for possible legislation, to the Legislature on or before December 15, 2011. For purposes of this subdivision, dual-enrollment course has the same definition as provided in section 79-1201.01.

**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.  
Effective date May 5, 2011.

**Cross References**

**Access College Early Scholarship Program Act**, see section 85-2101.

**Integrated Postsecondary Education Data System**, see section 85-1424.

**Nebraska Opportunity Grant Act**, see section 85-1901.

**Postsecondary Institution Act**, see section 85-2401.

**85-1418 Program or capital construction project; state funds; restrictions on use; district court of Lancaster County; jurisdiction; appeals; procedure.**

(1) No state warrant shall be issued by the Department of Administrative Services or used by any public institution for the purpose of funding any program or capital construction project which has not been approved or which has been disapproved by the commission pursuant to the Coordinating Commission for Postsecondary Education Act. If state funding for any such program or project cannot be or is not divided into warrants separate from other programs or projects, the department shall reduce a warrant to the public institution which includes funding for the program or project by the amount of tax funds designated by the Legislature which are budgeted in that fiscal year by the public institution for use for the program or project.

(2) The department may reduce the amount of state aid distributed to a community college area pursuant to the Community College Foundation and Equalization Aid Act, or for fiscal years 2010-11, 2011-12, and 2012-13 pursuant to section 90-517, by the amount of funds used by the area to provide a program or capital construction project which has not been approved or which has been disapproved by the commission.

(3) The district court of Lancaster County shall have jurisdiction to enforce an order or decision of the commission entered pursuant to the Coordinating Commission for Postsecondary Education Act and to enforce this section.

(4) Any person or public institution aggrieved by a final order of the commission entered pursuant to section 85-1413, 85-1414, 85-1415, or 85-1416 shall be entitled to judicial review of the order. Proceedings for review shall be instituted by filing a petition in the district court of Lancaster County within thirty days after public notice of the final decision by the commission is given. The filing of the petition or the service of summons upon the commission shall not stay enforcement of such order. The review shall be conducted by the court without a jury on the record of the commission. The court shall have jurisdiction to enjoin enforcement of any order of the commission which is (a) in violation of constitutional provisions, (b) in excess of the constitutional or statutory authority of the commission, (c) made upon unlawful procedure, or (d) affected by other error of law.

(5) A party may secure a review of any final judgment of the district court by appeal to the Court of Appeals. Such appeal shall be taken in the manner provided by law for appeals in civil cases and shall be heard de novo on the record.

**Source:** Laws 1991, LB 663, § 21; Laws 1992, LB 360, § 40; Laws 1993, LB 239, § 22; Laws 2007, LB342, § 39; Laws 2010, LB1072, § 5; Laws 2011, LB59, § 4.

Effective date February 23, 2011.

**Cross References**

Community College Foundation and Equalization Aid Act, see section 85-2201.

**ARTICLE 15  
COMMUNITY COLLEGES**

**Section**

85-1503. Terms, defined.

85-1517. Board; power to certify tax levy; limit; purpose; approval required to raise levy over limit; how collected.

85-1535. Facilities for applied technology educational programs; contracts authorized; costs.

**85-1503 Terms, defined.**

For purposes of sections 85-1501 to 85-1540, unless the context otherwise requires:

(1) Community college means an educational institution operating and offering programs pursuant to such sections;

(2) Community college area means an area established by section 85-1504;

(3) Board means the Community College Board of Governors for each community college area;

(4) Full-time equivalent student means, in the aggregate, the equivalent of a registered student who in a twelve-month period is enrolled in (a) thirty semester credit hours or forty-five quarter credit hours of classroom, laboratory, clinical, practicum, or independent study course work or cooperative work experience or (b) nine hundred contact hours of classroom or laboratory course work for which credit hours are not offered or awarded. Avocational and recreational community service programs or courses are not included in determining full-time equivalent students or student enrollment;

(5) Contact hour means an educational activity consisting of sixty minutes minus break time and required time to change classes;

(6) Credit hour means the unit used to ascertain the educational value of course work offered by the institution to students enrolling for such course work, earned by such students upon successful completion of such course work, and for which tuition is charged. A credit hour may be offered and earned in any of several instructional delivery systems, including, but not limited to, classroom hours, laboratory hours, clinical hours, practicum hours, cooperative work experience, and independent study. A credit hour shall consist of a minimum of: (a) Ten quarter or fifteen semester classroom contact hours per term of enrollment; (b) twenty quarter or thirty semester academic transfer and academic support laboratory hours per term of enrollment; (c) thirty quarter or forty-five semester vocational laboratory hours per term of enrollment; (d) thirty quarter or forty-five semester clinical or practicum contact hours per term of enrollment; or (e) forty quarter or sixty semester cooperative work experience contact hours per term of enrollment. An institution may include in a credit hour more classroom, laboratory, clinical, practicum, or cooperative work experience hours than the minimum required in this subdivision. The institution shall publish in its catalog, or otherwise make known to the student in writing prior to the student enrolling or paying tuition for any courses, the number of credit or contact hours offered in each such course. Such published credit or contact hour offerings shall be used to determine whether a student is a full-time equivalent student pursuant to subdivision (4) of this section;

(7) Classroom hour means a minimum of fifty minutes of formalized instruction on campus or off campus in which a qualified instructor applying any combination of instructional methods such as lecture, directed discussion, demonstration, or the presentation of audiovisual materials is responsible for providing an educational experience to students;

(8) Laboratory hour means a minimum of fifty minutes of educational activity on campus or off campus in which students conduct experiments, perfect skills, or practice procedures under the direction of a qualified instructor;

(9) Clinical hour means a minimum of fifty minutes of educational activity on campus or off campus during which the student is assigned practical experience under constant supervision at a health-related agency, receives individual instruction in the performance of a particular function, and is observed and critiqued in the repeat performance of such function. Adjunct professional personnel, who may or may not be paid by the college, may be used for the directed supervision of students and for the delivery of part of the didactic phase of the experience;

(10) Practicum hour means a minimum of fifty minutes of educational activity on campus or off campus during which the student is assigned practical experiences, receives individual instruction in the performance of a particular function, and is observed and critiqued by an instructor in the repeat performance of such function. Adjunct professional personnel, who may or may not be paid by the college, may be used for the directed supervision of the students;

(11) Cooperative work experience means an internship or on-the-job training, designed to provide specialized skills and educational experiences, which is coordinated, supervised, observed, and evaluated by qualified college staff or faculty and may be completed on campus or off campus, depending on the nature of the arrangement;

(12) Independent study means an arrangement between an instructor and a student in which the instructor is responsible for assigning work activity or skill objectives to the student, personally providing needed instruction, assessing the student's progress, and assigning a final grade. Credit hours shall be assigned according to the practice of assigning credits in similar courses;

(13) Full-time equivalent student enrollment total means the total of full-time equivalent students enrolled in a community college in any fiscal year;

(14) General academic transfer course means a course offering in a one-year or two-year degree-credit program, at the associate degree level or below, intended by the offering institution for transfer into a baccalaureate program. The completion of the specified courses in a general academic transfer program may include the award of a formal degree;

(15) Applied technology or occupational course means a course offering in an instructional program, at the associate degree level or below, intended to prepare individuals for immediate entry into a specific occupation or career. The primary intent of the institutions offering an applied technology or occupational program shall be that such program is for immediate job entry. The completion of the specified courses in an applied technology or occupational program may include the award of a formal degree, diploma, or certificate;

(16) Academic support course means a general education academic course offering which may be necessary to support an applied technology or occupational program;

(17) Class 1 course means an applied technology or occupational course offering which requires the use of equipment, facilities, or instructional methods easily adaptable for use in a general academic transfer program classroom or laboratory;

(18) Class 2 course means an applied technology or occupational course offering which requires the use of specialized equipment, facilities, or instructional methods not easily adaptable for use in a general academic transfer program classroom or laboratory;

(19) Full-time equivalent student means a full-time equivalent student subject to the following limitation: The number of credit and contact hours which shall be counted by any community college area in which a tribally controlled community college is located shall include credit and contact hours awarded by such tribally controlled community college to students for which such institution received no federal reimbursement pursuant to the Tribally Controlled Community College Assistance Act, 25 U.S.C. 1801;

(20) Full-time equivalent total means the total of all full-time equivalents accumulated in a community college area in any fiscal year;

(21) Reimbursable educational unit means a full-time equivalent student multiplied by (a) for a general academic transfer course or an academic support course, a factor of one, (b) for a Class 1 course, a factor of one and fifty-hundredths, (c) for a Class 2 course, a factor of two, (d) for a tribally controlled community college general academic transfer course or academic support course, a factor of two, (e) for a tribally controlled community college Class 1 course, a factor of three, and (f) for a tribally controlled community college Class 2 course, a factor of four;

(22) Reimbursable educational unit total means the total of all reimbursable educational units accumulated in a community college area in any fiscal year;

(23) Special instructional term means any term which is less than fifteen weeks for community colleges using semesters or ten weeks for community colleges using quarters;

(24) Statewide reimbursable full-time equivalent total means the total of all reimbursable full-time equivalents accumulated statewide for the community college in any fiscal year;

(25) Tribally controlled community college means an educational institution operating and offering programs pursuant to the Tribally Controlled Community College Assistance Act, 25 U.S.C. 1801; and

(26) Tribally controlled community college state aid amount means:

(a) For fiscal years before fiscal year 2010-11, the quotient of the amount of state aid to be distributed pursuant to the Community College Foundation and Equalization Aid Act for the current fiscal year to a community college area in which a tribally controlled community college is located divided by the reimbursable educational unit total for such community college area for the immediately preceding fiscal year, with such quotient then multiplied by the average reimbursable educational units derived pursuant to subdivision (19) of this section for the immediately preceding fiscal year; and

(b) For fiscal years 2010-11, 2011-12, and 2012-13, the amount of state aid provided to a tribally controlled community college pursuant to section 90-517.

**Source:** Laws 1975, LB 344, § 2; Laws 1977, LB 459, § 10; Laws 1979, LB 363, § 1; Laws 1984, LB 890, § 1; Laws 1987, LB 329, § 1; Laws 1988, LB 802, § 30; Laws 1991, LB 663, § 45; Laws 1992, LB 921, § 1; R.S.Supp.,1992, § 79-2637; Laws 1993, LB 239, § 25; Laws 1995, LB 241, § 1; Laws 1997, LB 269, § 68; Laws 1999, LB 67, § 1; Laws 2005, LB 38, § 3; Laws 2007, LB342, § 40; Laws 2010, LB1072, § 7; Laws 2011, LB59, § 5.  
Effective date February 23, 2011.

**Cross References**

Community College Foundation and Equalization Aid Act, see section 85-2201.

**85-1517 Board; power to certify tax levy; limit; purpose; approval required to raise levy over limit; how collected.**

(1)(a) For fiscal years prior to fiscal year 2010-11, 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 maximum levy calculated pursuant to the Community College Foundation and Equalization Aid Act on each one hundred dollars on the taxable valuation of all property subject to the levy within the community college area, uniform throughout such area, for the purpose of supporting operating expenditures of the community college area.

(b) For fiscal year 2010-11 and each fiscal year thereafter, 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.

(2) In addition to the levies provided in subsections (1) and (3) of this section, the board may certify to the county board of equalization of each county within the community college area a tax levy of 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 purpose of establishing a capital improvement fund and bond sinking fund as provided in section 85-1515. The levy provided by this subsection 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.

(3) In addition to the levies provided in subsections (1) and (2) 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.

(4) 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.  
Effective date February 23, 2011.

**Cross References**

Community College Foundation and Equalization Aid Act, see section 85-2201.

**85-1535 Facilities for applied technology educational programs; contracts authorized; costs.**

A board of a community college area with a population of less than one hundred thousand according to the last federal decennial census and a campus located on a former military base may enter into contracts with any person, firm, or corporation providing for the implementation of any project for the constructing and improving of facilities to house applied technology educational programs necessary to carry out sections 85-1501 to 85-1540 and providing for the long-term payment of the cost of such project.

In no case shall any such contract run for a period longer than twenty years or shall the aggregate of existing contracts exceed four million five hundred

thousand dollars for each area exclusive of administrative costs, credit enhancement costs, financing costs, capitalized interest, and reserves dedicated to secure payment of contracts.

No contract shall be entered into pursuant to this section without prior approval by a resolution of the board and the approval of the Coordinating Commission for Postsecondary Education.

The long-term payment of the cost of such project shall be paid from revenue to be raised pursuant to subsection (2) of section 85-1517. Any board entering into such contract for the construction and improvement of facilities from revenue to be raised pursuant to such subsection shall make annual appropriations for amounts sufficient to pay annual obligations under such contract for the duration of such contract.

The board may also convey or lease and lease back all or any part of the project and the land on which such project is situated to such person, firm, or corporation as the board may contract with pursuant to this section to facilitate the long-term payment of the cost of such project. Any such conveyance or lease shall provide that when the cost of such project has been paid, together with interest and other costs thereon, such project and the land on which such project is located shall become the property of the community college area.

**Source:** Laws 1993, LB 239, § 57; Laws 1997, LB 269, § 74; Laws 2011, LB59, § 7.

Effective date February 23, 2011.

## ARTICLE 16

### PRIVATE POSTSECONDARY CAREER SCHOOLS

#### Section

85-1604. Education and schools; exempt from act.

85-1620. School; authority to award associate degrees; commissioner; authorize.

85-1643. Private Postsecondary Career Schools Cash Fund; created; use; fees; schedule; no refund.

#### **85-1604 Education and schools; exempt from act.**

The following education and schools are exempted from the Private Postsecondary Career School Act:

(1) Schools exclusively offering instruction at any or all levels from preschool through the twelfth grade;

(2) Education sponsored by a bona fide trade, business, professional, or fraternal organization which is offered solely for that organization's membership or offered without charge;

(3) Education provided by or funded by an employer and offered solely to its employees for the purpose of improving such persons in such employment;

(4) Education solely avocational or recreational in nature as determined by the department;

(5) Educational programs offered by a charitable institution, organization, or agency as long as such education or training is not advertised or promoted as leading toward occupational objectives;

(6) Public postsecondary schools established, operated, and governed by this state or its political subdivisions;



(7) Schools or organizations offering education or instruction that is not part of a degree program leading to an associate, a baccalaureate, a graduate, or a professional degree which are licensed and regulated by agencies of this state other than the department, except that such schools or organizations shall not be exempt from the act with respect to agents' permits and the Tuition Recovery Cash Fund;

(8) Schools or organizations which offer education or instruction and which are licensed and regulated solely by an agency of the federal government with respect to curriculum and qualifications of instructional staff;

(9) Any postsecondary institution offering or proposing to offer courses or programs leading to a baccalaureate, graduate, or professional degree, but whose offerings may include associate degree programs, diplomas, and other certificates based on the award of college credit, including any such institutions that were regulated prior to May 5, 2011, as private postsecondary career schools pursuant to the Private Postsecondary Career School Act; and

(10) Entities exclusively offering short-term training.

**Source:** Laws 1977, LB 486, § 4; Laws 1980, LB 774, § 1; Laws 1982, LB 370, § 2; Laws 1990, LB 488, § 4; Laws 1993, LB 348, § 57; R.S.1943, (1994), § 79-2804; Laws 1995, LB 4, § 4; Laws 2003, LB 685, § 31; Laws 2011, LB637, § 30.  
Effective date May 5, 2011.

**85-1620 School; authority to award associate degrees; commissioner; authorize.**

A school which has been accredited pursuant to section 85-1619 may apply to the department for authority to award associate degrees. Upon determining that the quality of the courses of instruction at the applicant school meets the standards established in the department's rules and regulations, the commissioner may grant the applicant the authority to award an associate degree and shall issue a certificate setting forth the programs for which the associate degree may be awarded. Such authorization shall continue so long as the school remains accredited.

**Source:** Laws 1982, LB 370, § 5; Laws 1990, LB 488, § 20; R.S.1943, (1994), § 79-2820.01; Laws 1995, LB 4, § 20; Laws 2003, LB 685, § 32; Laws 2011, LB637, § 31.  
Effective date May 5, 2011.

**85-1643 Private Postsecondary Career Schools Cash Fund; created; use; fees; schedule; no refund.**

(1) The Private Postsecondary Career Schools Cash Fund is created. All fees collected pursuant to the Private Postsecondary Career School Act shall be remitted to the State Treasurer for credit to the fund. The fund shall be used only for the purpose of administering the act. No fees shall be subject to refund.

(2) Except as provided in subsection (4) of this section, fees collected pursuant to the act shall be the following:

(a) Initial application for authorization to operate, two hundred dollars plus twenty dollars per program of study offered;

(b) Renewal application for authorization to operate, one hundred dollars plus twenty dollars per program of study offered, except that the board may

establish a variable fee schedule based upon the prior school year's gross tuition revenue as provided by the school pursuant to section 85-1656;

- (c) Approval to operate a branch facility, one hundred dollars;
- (d) Late submission of application, fifty dollars;
- (e) Initial agent's permit, fifty dollars;
- (f) Agent's permit renewal, twenty dollars;
- (g) Accreditation or reaccreditation, one hundred dollars;
- (h) Initial authorization to award an associate degree, one hundred dollars;
- (i) Significant program change, fifty dollars;
- (j) Change of name or location, twenty-five dollars; and
- (k) Additional new program, one hundred dollars.

(3) Fees for out-of-state schools may include, but shall not exceed the following:

- (a) Certificate of approval to recruit, five hundred dollars annually;
- (b) Initial agent's permit, one hundred dollars; and
- (c) Agent's permit renewal, forty dollars.

(4)(a) The board shall consult with the advisory council established pursuant to section 85-1607 regarding any increase in fees under the act. Beginning with fiscal year 2006-07 and each year thereafter, the board in consultation with the advisory council shall establish fees sufficient to cover the total cost of administration, except that such fees shall not exceed one hundred ten percent of the previous year's total cost. Such fees shall be set out in the rules and regulations adopted and promulgated by the board.

(b) Total cost of administration shall be determined by an annual audit of:

- (i) Salaries and benefits or portions thereof for those department employees who administer the act;
- (ii) Operating costs such as rent, utilities, and supplies;
- (iii) Capital costs such as office equipment, computer hardware, and computer software;
- (iv) Costs for travel by employees of the department, including car rental, gas, and mileage charges; and
- (v) Other reasonable and necessary costs as determined by the board.

**Source:** Laws 1977, LB 486, § 46; Laws 1982, LB 928, § 72; Laws 1982, LB 370, § 9; Laws 1990, LB 488, § 42; R.S.1943, (1994), § 79-2846; Laws 1995, LB 4, § 43; Laws 1999, LB 489, § 6; Laws 2003, LB 685, § 35; Laws 2011, LB637, § 32.  
Effective date May 5, 2011.

## ARTICLE 17

### NEBRASKA EDUCATIONAL FINANCE AUTHORITY

Section

85-1738. Authority; bonds; issuance; form; proceeds; how used; replacement; liability; liability insurance; indemnification.

**85-1738 Authority; bonds; issuance; form; proceeds; how used; replacement; liability; liability insurance; indemnification.**

The authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of bonds for the purpose of (1) paying, refinancing, or reimbursing all or any part of the cost of a project, (2) administering and operating the Nebraska Health Education Assistance Loan Program and the Nebraska Student Loan Assistance Program, or (3) making loans to any private institution of higher education in anticipation of the receipt of tuition by the institution. Except to the extent payable from payments to be made on securities or federally guaranteed securities as provided in sections 85-1741 and 85-1742, the principal of and the interest on such bonds shall be payable solely out of the revenue of the authority derived from the project or program to which they relate and from any other facilities or assets pledged or made available therefor by the private institution of higher education for whose benefit such bonds were issued. The bonds of each issue shall be dated, shall bear interest at such rate or rates, without regard to any limit contained in any other statute or law of the State of Nebraska, shall mature at such time or times not exceeding forty years from the date thereof, all as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority in the authorizing resolution. Except to the extent required by the Nebraska Educational Finance Authority Act and for bonds issued to fund the Nebraska Student Loan Assistance Program, such bonds are to be paid out of the revenue of the project to which they relate and, in certain instances, the revenue of certain other facilities, and subject to the provisions of sections 85-1741 and 85-1742 with respect to a pledge of securities or government securities, the bonds may be unsecured or secured in the manner and to the extent determined by the authority in its discretion.

The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state. The bonds shall be signed in the name of the authority, by its chairperson or vice-chairperson or by a facsimile signature of such person, the official seal of the authority or a facsimile thereof shall be affixed thereto and attested by the manual or facsimile signature of the executive director or assistant executive director of the authority, and any coupons attached thereto shall bear the facsimile signature of the executive director or assistant executive director of the authority. In case any official of the authority whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be such an official before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained an official of the authority until such delivery.

All bonds issued under the act shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the law of the State of Nebraska. The bonds may be issued in coupon or in registered form, or both, and one form may be exchangeable for the other in such manner as the authority may determine. Provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The bonds may be sold in such manner, either at public or private sale, as the authority may determine.

The proceeds of the bonds of each issue shall be used solely for the payment of the costs of the project or program for which such bonds have been issued and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement provided for in section 85-1740 securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, are less than such costs, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue exceed the cost of the project or program for which they were issued, the surplus shall be deposited to the credit of the sinking fund for such bonds.

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

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

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

**Source:** Laws 1981, LB 321, § 38; Laws 1983, LB 159, § 4; Laws 1993, LB 465, § 19; R.S.1943, (1994), § 79-2938; Laws 1995, LB 5, § 38; Laws 2003, LB 107, § 2; Laws 2011, LB424, § 1.  
Effective date August 27, 2011.

## ARTICLE 21

### ACCESS COLLEGE EARLY SCHOLARSHIP PROGRAM ACT

#### Section

85-2105. Applicant; application; contents; commission; powers and duties; educational institution receiving payment; report required.

**85-2105 Applicant; application; contents; commission; powers and duties; educational institution receiving payment; report required.**

(1) An applicant for the Access College Early Scholarship Program shall complete an application form developed and provided by the commission and

shall forward the form to his or her guidance counselor. Such application shall include, but not be limited to, the applicant's high school, social security number, date of birth, grade point average, grade level, qualified postsecondary educational institution, and information necessary to determine the student's eligibility. The guidance counselor shall verify the student's eligibility under the Access College Early Scholarship Program Act and shall forward the application to the commission for review within fifteen days following receipt of the form from the student. Notification of tuition and mandatory fees to be accrued by the student shall be provided to the commission by the student, high school, or qualified postsecondary educational institution as determined by the commission.

(2) The commission shall review the application and verify the student's eligibility under the act. The commission shall notify the student and the student's guidance counselor of the verification of eligibility and the estimated award amount in writing within thirty days following receipt of the form from the student's guidance counselor. The scholarship award shall equal the lesser of tuition and mandatory fees accrued by the student after any discounts applicable to such student from the qualified postsecondary educational institution or the tuition and mandatory fees that would have been accrued by the student for the same number of credit hours if the student were taking the course as a full-time, resident, undergraduate student from the University of Nebraska-Lincoln. The commission shall forward such amount directly to the qualified postsecondary educational institution as payment of such student's tuition and mandatory fees.

(3) The commission shall make such payments in the order the applications are received, except that the commission may limit the number of scholarships awarded in each term.

(4) The commission may limit the number of scholarships a student may receive.

(5) For any student receiving a scholarship pursuant to the act for tuition and mandatory fees, the qualified postsecondary educational institution receiving the payment shall report either the student's grade for the course or the student's failure to complete the course to the commission within thirty days after the end of the course or within one hundred eighty days after receipt of a payment pursuant to the act if the course for which the scholarship was awarded does not have a specified ending date. The commission shall keep the identity of students receiving scholarships confidential, except as necessary to comply with the requirements of the act.

**Source:** Laws 2007, LB192, § 6; Laws 2009, LB20, § 1; Laws 2011, LB637, § 33.

Effective date May 5, 2011.

## ARTICLE 24

### POSTSECONDARY INSTITUTION ACT

#### Section

- 85-2401. Act, how cited.
- 85-2402. Purposes of act.
- 85-2403. Terms, defined.
- 85-2404. Act; administration; commission; powers.
- 85-2405. Commission; powers and duties.

**§ 85-2401 UNIVERSITY, COLLEGES, POSTSECONDARY EDUCATION**

Section

- 85-2406. Rules and regulations; minimum standards; established.
- 85-2407. Act; exemptions.
- 85-2408. Postsecondary institution; authorization to operate required.
- 85-2409. Postsecondary institution; charge for tuition or fees; loans; prohibited acts.
- 85-2410. Institutions deemed to have authorization to operate.
- 85-2411. Authorization to operate as new institution; application; application for renewal of authorization to operate; when required; failure to apply; effect.
- 85-2412. Application; review; grant of authorization; terms and conditions; term; renewal; modifications to existing authorization; application; new campus; public hearing.
- 85-2413. Authorization to operate; form; contents.
- 85-2414. Suspension or revocation of authorization to operate; procedure; hearing; commission; powers.
- 85-2415. Authorization to operate or authorization to operate on a continuing basis; nontransferable; change in ownership; application for new authorization; failure to apply; effect.
- 85-2416. Authorization to operate; renewal.
- 85-2417. Commission decision; aggrieved party; right to hearing and review; procedure; notice; judicial review.
- 85-2418. Complaint authorized; commission; hearing; notice; cease and desist order; additional actions authorized.
- 85-2419. Final commission action; appeal.
- 85-2420. Enforcement of act; Attorney General or county attorney; powers.
- 85-2421. Violations of act; commission; petition for injunction; additional remedies.

**85-2401 Act, how cited.**

Sections 85-2401 to 85-2421 shall be known and may be cited as the Postsecondary Institution Act.

**Source:** Laws 2011, LB637, § 1.  
Effective date May 5, 2011.

**85-2402 Purposes of act.**

The purposes of the Postsecondary Institution Act are to ensure that minimum standards of operation are met by both private and out-of-state postsecondary institutions operating in Nebraska and to provide for consumer protection for students who enroll in higher education programs in this state.

**Source:** Laws 2011, LB637, § 2.  
Effective date May 5, 2011.

**85-2403 Terms, defined.**

For purposes of the Postsecondary Institution Act:

- (1) Authorization to operate means approval by the commission to operate a postsecondary institution in this state;
- (2) Authorization to operate on a continuing basis means approval by the commission to operate a postsecondary institution in this state without a renewal requirement;
- (3) Commission means the Coordinating Commission for Postsecondary Education;
- (4)(a) Establishing a physical presence means:
  - (i) Offering a course for college credit or a degree program in this state that leads to an associate, baccalaureate, graduate, or professional degree, including:

(A) Establishing a physical location in this state where a student may receive synchronous or asynchronous instruction; or

(B) Offering a course or program that requires students to physically meet in one location for instructional purposes more than once during the course term; or

(ii) Establishing an administrative office in this state, including:

(A) Maintaining an administrative office in this state for purposes of enrolling students, providing information to students about the institution, or providing student support services;

(B) Providing office space to staff, whether instructional or noninstructional staff; or

(C) Establishing a mailing address in this state.

(b) Physical presence does not include:

(i) Course offerings in the nature of a short course or seminar if instruction for the short course or seminar takes no more than twenty classroom hours;

(ii) Course offerings on a military installation solely for military personnel or civilians employed on such installation;

(iii) An educational experience arranged for an individual student, such as a clinical, practicum, residency, or internship; or

(iv) Courses offered online or through the United States mail or similar delivery service which do not require the physical meeting of a student with instructional staff;

(5) Executive director means the executive director of the commission or his or her designee;

(6) Nebraska public postsecondary institution means any public institution established, operated, and governed by this state or any of its political subdivisions that provides postsecondary education;

(7) Out-of-state public postsecondary institution means any public institution with a physical presence in Nebraska that is established, operated, and governed by another state or any of its political subdivisions and that provides postsecondary education;

(8) Postsecondary institution means any private postsecondary institution, out-of-state public postsecondary institution, or Nebraska public postsecondary institution exempt from the Private Postsecondary Career School Act; and

(9) Private postsecondary institution means any Nebraska or out-of-state nonpublic postsecondary institution with a physical presence in Nebraska, including any for-profit or nonprofit institution, that provides postsecondary education.

**Source:** Laws 2011, LB637, § 3.

Effective date May 5, 2011.

**Cross References**

Private Postsecondary Career School Act, see section 85-1601.

**85-2404 Act; administration; commission; powers.**

The commission shall administer the Postsecondary Institution Act. To fulfill the purposes of the act, the commission may request from any department, division, board, bureau, commission, or other agency of this state, and such

entity shall provide, such information as the commission deems necessary to exercise its powers and perform its duties under the act.

**Source:** Laws 2011, LB637, § 4.  
Effective date May 5, 2011.

**85-2405 Commission; powers and duties.**

The commission has the following powers and duties:

(1) To establish levels of authorization to operate based on institutional offerings;

(2) To receive, investigate as it may deem necessary, and act upon applications for authorization to operate and applications to renew an authorization to operate;

(3) To establish reporting requirements by campus location either through the federal Integrated Postsecondary Education Data System, 20 U.S.C. 1094(a)(17), as such section existed on January 1, 2011, and 34 C.F.R. 668.14(b)(19), as such regulation existed on January 1, 2011, or directly to the commission for any postsecondary institution authorized to operate;

(4) To maintain a list of postsecondary institutions authorized to operate, which shall be made available to the public;

(5) To establish a notification process when an authorized postsecondary institution changes its address or adds instructional sites within this state;

(6) To conduct site visits of postsecondary institutions to carry out the Postsecondary Institution Act;

(7) To establish fees for applications for authorization to operate and applications to renew authorization to operate, which shall be not more than the cost of reviewing and evaluating the applications;

(8) To investigate any violations of the act by a postsecondary institution; and

(9) To adopt and promulgate rules, regulations, and procedures to administer the act.

**Source:** Laws 2011, LB637, § 5.  
Effective date May 5, 2011.

**85-2406 Rules and regulations; minimum standards; established.**

The commission shall adopt and promulgate rules and regulations to establish minimum standards according to which a postsecondary institution shall be authorized to operate within the state, and upon failure to operate according to such standards, the postsecondary institution shall be subject to the suspension or revocation of the authorization to operate. An institution shall demonstrate that it can be maintained and operated in accordance with such standards. The standards shall include, but not be limited to:

(1) The financial soundness of the institution and its capability to fulfill its proposed commitments and sustain its operations;

(2) The quality and adequacy of teaching faculty, library services, and support services;

(3) The quality of the programs offered, including courses, programs of instruction, degrees, any necessary clinical placements, and the institution's ability to generate and sustain enrollment;



(4) The specific locations where programs will be offered or planned locations and a demonstration that facilities are adequate at the locations for the programs to be offered;

(5) Assurances regarding transfer of credits earned in the program to the main campus of such institution and clear and accurate representations about the transferability of credits to other institutions located in Nebraska and elsewhere;

(6) Whether such institution and, when appropriate, the program, are fully accredited, or seeking accreditation, by an accrediting body recognized by the United States Department of Education;

(7) The institution's policies and procedures related to students, including, but not limited to, recruiting and admissions practices;

(8) The tuition refund policy for an institution that does not participate in federal financial aid programs described in Title IV of the federal Higher Education Act of 1965, 20 U.S.C. 1001 et seq., as such act existed on January 1, 2011; and

(9) Any other standards deemed necessary by the commission.

**Source:** Laws 2011, LB637, § 6.  
Effective date May 5, 2011.

#### **85-2407 Act; exemptions.**

The following are exempt from the Postsecondary Institution Act:

(1) Any institution or organization which offers education or instruction and which is licensed and regulated solely by an agency of the federal government with respect to curriculum and qualifications of instructional staff; or

(2) Any private postsecondary career school as defined in the Private Postsecondary Career School Act.

**Source:** Laws 2011, LB637, § 7.  
Effective date May 5, 2011.

#### **Cross References**

Private Postsecondary Career School Act, see section 85-1601.

#### **85-2408 Postsecondary institution; authorization to operate required.**

No postsecondary institution shall operate in the State of Nebraska by establishing a physical presence in this state until it has received authorization to operate by the commission.

**Source:** Laws 2011, LB637, § 8.  
Effective date May 5, 2011.

#### **85-2409 Postsecondary institution; charge for tuition or fees; loans; prohibited acts.**

No postsecondary institution authorized to operate under the Postsecondary Institution Act shall charge tuition or fees for more than one academic term or require a student to sign loan documents for more than one academic year.

**Source:** Laws 2011, LB637, § 9.  
Effective date May 5, 2011.

**85-2410 Institutions deemed to have authorization to operate.**

(1) On May 5, 2011, the following institutions shall be deemed to have authorization to operate on a continuing basis:

(a) All out-of-state public postsecondary institutions with a physical presence that for at least twenty academic years have continuously offered one or more four-year undergraduate programs in Nebraska in compliance with state and federal law;

(b) All private postsecondary institutions with a physical presence that for at least twenty academic years, under the same ownership, have continuously offered one or more four-year undergraduate programs in Nebraska in compliance with state and federal law; and

(c) All Nebraska public postsecondary institutions.

(2) Nothing in this section shall provide any additional authority to the commission to regulate any institution deemed to have authorization to operate on a continuing basis.

**Source:** Laws 2011, LB637, § 10.  
Effective date May 5, 2011.

**85-2411 Authorization to operate as new institution; application; application for renewal of authorization to operate; when required; failure to apply; effect.**

(1) Any postsecondary institution with a physical presence in Nebraska as of May 5, 2011, and not previously authorized to operate by the commission or other state agency prior to May 5, 2011, shall apply to the commission for authorization to operate as a new institution on or before December 31, 2011.

(2) Any postsecondary institution authorized to operate by the commission or other state agency prior to May 5, 2011, and not deemed to have authority to operate on a continuing basis pursuant to section 85-2410 shall apply to the commission for a renewal of the authorization to operate between October 1, 2011, and December 31, 2011. If the institution fails to apply on or before December 31, 2011, the original authorization to operate shall terminate on January 1, 2012.

(3) Any postsecondary institution that has not established a physical presence as of May 5, 2011, shall apply to the commission for authorization to operate as a new institution and receive such authorization prior to commencing operations in this state.

**Source:** Laws 2011, LB637, § 11.  
Effective date May 5, 2011.

**85-2412 Application; review; grant of authorization; terms and conditions; term; renewal; modifications to existing authorization; application; new campus; public hearing.**

(1) Except as otherwise provided in this section, after review of an initial application for authorization to operate, including any further information submitted by the applicant as required by the commission and any investigation of the applicant as the commission may deem necessary or appropriate, the commission shall grant or deny the application for initial authorization to operate. A grant of an initial authorization to operate may be on such terms and conditions as the commission may specify. Such authorization shall be for a

five-year period unless the commission determines that a shorter period of time is appropriate based on the standards established pursuant to section 85-2406.

(2) After review of an application to renew an authorization to operate, including any further information submitted by the applicant as required by the commission and any investigation of the applicant as the commission may deem necessary or appropriate, the commission shall grant or deny the application for renewal of an authorization to operate. Renewal of an authorization to operate may be on such terms and conditions as the commission may specify. Such authorization shall be for a five-year period unless the commission determines that a shorter renewal period is appropriate based on the standards established pursuant to section 85-2406. If the applicant has, for at least twenty academic years under the same ownership, continuously offered one or more four-year undergraduate programs with a physical presence in Nebraska in compliance with state and federal law, the commission shall grant authorization to operate on a continuing basis unless the commission determines that an additional review period is appropriate based on the standards established pursuant to section 85-2406.

(3) Except as otherwise provided in this section, modifications, as defined by the commission in rules and regulations, to an existing authorization to operate, but not to an authorization to operate on a continuing basis, shall require an application to the commission. After review of the application, including any further information submitted by the applicant as required by the commission and any investigation of the applicant as the commission may deem necessary or appropriate, the commission shall grant or deny the application. Approval of the application may be on such terms and conditions as the commission may specify. Such authorization shall replace the existing authorization to operate and shall be for a five-year period unless the commission determines that a shorter period of time is appropriate based on the standards established pursuant to section 85-2406.

(4) If an application for an initial authorization to operate or a modification to an existing authorization to operate includes a request to establish a new campus in this state, as defined by the commission in rules and regulations, the commission shall hold a public hearing. The hearing shall be scheduled following a completed review of the application for authorization to operate or the modification of an authorization to operate, including any further information submitted by the applicant as required by the commission and any investigation of the applicant as the commission may deem necessary or appropriate, and shall be conducted according to the Administrative Procedure Act. After the public hearing, the commission shall grant or deny the application. A grant of authorization to operate or the modification of an authorization to operate may be on such terms and conditions as the commission may specify. Such authorization or modification shall be for a five-year period unless the commission determines that a shorter period of time is appropriate based on the standards established pursuant to section 85-2406.

**Source:** Laws 2011, LB637, § 12.  
Effective date May 5, 2011.

**Cross References**

**Administrative Procedure Act**, see section 84-920.

**85-2413 Authorization to operate; form; contents.**

An authorization to operate shall be in a form approved by the commission and shall state in a clear and conspicuous manner at least the following information:

- (1) The date of issuance, effective date, and term of the authorization to operate;
- (2) The full and correct name and address of the institution authorized to operate;
- (3) The authority for authorization to operate and the conditions thereof; and
- (4) Any limitation of authorization to operate as deemed necessary by the commission.

**Source:** Laws 2011, LB637, § 13.  
Effective date May 5, 2011.

**85-2414 Suspension or revocation of authorization to operate; procedure; hearing; commission; powers.**

Any postsecondary institution authorized to operate which ceases to meet any of the requirements of the Postsecondary Institution Act, any rules or regulations adopted and promulgated under the act, or any terms or conditions specified by the commission for authorization to operate under the act shall be notified in writing of any such specific deficiency by certified mail. A hearing shall be scheduled requiring the institution to show cause why the authorization to operate should not be suspended or revoked. The hearing shall be held according to the Administrative Procedure Act. After the hearing, if the commission determines that any requirements, rules or regulations, or terms and conditions have been violated, the commission may suspend or revoke the authorization to operate or may require action as a condition of continued authorization to operate.

**Source:** Laws 2011, LB637, § 14.  
Effective date May 5, 2011.

**Cross References**

Administrative Procedure Act, see section 84-920.

**85-2415 Authorization to operate or authorization to operate on a continuing basis; nontransferable; change in ownership; application for new authorization; failure to apply; effect.**

The authorization to operate or authorization to operate on a continuing basis shall be issued to the owner or governing body of the postsecondary institution and shall be nontransferable. If there is a change in ownership, as defined by the commission in rules and regulations, the new owner or governing body shall, within thirty days after the change of ownership, apply for a new authorization to operate under the Postsecondary Institution Act, and if the institution fails to apply within such time period, the original authorization to operate shall terminate. An application for a new authorization to operate may be deemed an application for renewal of the institution's original authorization to operate. Verification that all student records are transferred intact and in good condition to the new owner shall accompany the application.

**Source:** Laws 2011, LB637, § 15.  
Effective date May 5, 2011.

**85-2416 Authorization to operate; renewal.**

At least ninety days prior to the expiration of its authorization to operate, a postsecondary institution shall complete and file with the commission an application form for renewal of its authorization to operate. Financial stability information shall accompany the application.

**Source:** Laws 2011, LB637, § 16.  
Effective date May 5, 2011.

**85-2417 Commission decision; aggrieved party; right to hearing and review; procedure; notice; judicial review.**

(1) Any institution denied an authorization to operate, a renewal of an authorization to operate, or an authorization to operate on a continuing basis by the commission shall have the right to a hearing and a review of such decision by the commission. If upon written notification of a denial the aggrieved party desires a hearing and review, such party shall notify the commission in writing within ten business days after receipt of notice by the commission. If the aggrieved party does not notify the commission pursuant to this section, the action shall be deemed final. Upon receipt of such notice from the aggrieved party, the commission shall fix the time and place for a hearing and shall notify the aggrieved party of such by certified mail. The hearing shall be conducted according to the Administrative Procedure Act.

(2) A decision of the commission following such hearing shall be deemed final subject to the right of judicial review provided in the Administrative Procedure Act. All matters presented at any such hearing shall be acted upon promptly by the commission, and the commission shall notify all parties in writing of its decision, which shall include a statement of findings and conclusions upon all material issues of fact, law, or discretion presented at the hearing and the appropriate rule, regulation, order, sanction, relief, or denial thereof.

**Source:** Laws 2011, LB637, § 17.  
Effective date May 5, 2011.

**Cross References**

Administrative Procedure Act, see section 84-920.

**85-2418 Complaint authorized; commission; hearing; notice; cease and desist order; additional actions authorized.**

(1) Any person claiming damage or loss as a result of any act or practice by a postsecondary institution which is a violation of the Postsecondary Institution Act, of the rules and regulations adopted and promulgated under the act, or of standards established pursuant to section 85-2406 may file with the commission a complaint against such institution. The complaint shall set forth the alleged violation and shall contain such other information as may be required by the commission. A complaint may also be filed with the commission by the executive director or the Attorney General.

(2) If efforts by the commission to resolve the complaint are not successful and if the commission deems it appropriate, the commission may hold a hearing on such complaint after ten days' written notice by certified mail, return receipt requested, to such institution, giving notice of a time and place for the hearing on such complaint. Such hearing shall be conducted in accor-

dance with the Administrative Procedure Act. If, upon all evidence at the hearing, the commission finds that a postsecondary institution has engaged in or is engaging in any act or practice which violates the Postsecondary Institution Act, the rules and regulations adopted and promulgated under the act, or the standards established pursuant to section 85-2406, the commission shall issue and cause to be served upon such institution an order requiring such institution to cease and desist from such act or practice. The commission may also, as appropriate, based on its own investigation or the evidence adduced at such hearing or both, commence an action:

(a) To revoke an institution's authorization to operate if the institution does not have an authorization to operate on a continuing basis; or

(b) To refer the complaint and all related evidence to the Attorney General.

**Source:** Laws 2011, LB637, § 18.

Effective date May 5, 2011.

**Cross References**

Administrative Procedure Act, see section 84-920.

**85-2419 Final commission action; appeal.**

Any person aggrieved or adversely affected by any final commission action may appeal such action. The appeal shall be in accordance with the Administrative Procedure Act.

**Source:** Laws 2011, LB637, § 19.

Effective date May 5, 2011.

**Cross References**

Administrative Procedure Act, see section 84-920.

**85-2420 Enforcement of act; Attorney General or county attorney; powers.**

The Attorney General or the county attorney of the county in which a postsecondary institution is located, at the request of the commission or on his or her own accord, may bring any appropriate action or proceeding in any court of competent jurisdiction to enforce the Postsecondary Institution Act.

**Source:** Laws 2011, LB637, § 20.

Effective date May 5, 2011.

**85-2421 Violations of act; commission; petition for injunction; additional remedies.**

If it appears to the commission that any entity is or has been violating the Postsecondary Institution Act or any of the rules, regulations, or orders of the commission, the commission may file a petition for injunction in the name of the commission in any court of competent jurisdiction in this state against such entity for the purpose of enjoining such violation or for an order directing compliance with the act and any rules, regulations, and orders. The commission shall not be required to allege or prove that there is no adequate remedy at law. The right of injunction provided in this section shall be in addition to any other legal remedy which the commission may possess and shall be in addition to any right of criminal prosecution provided by law. The commission shall not obtain a temporary restraining order without notice to the entity affected. The

pendency of commission action with respect to alleged violations shall not operate as a bar to an action for injunctive relief pursuant to this section.

**Source:** Laws 2011, LB637, § 21.  
Effective date May 5, 2011.





## CHAPTER 86

### TELECOMMUNICATIONS AND TECHNOLOGY

Article.

1. Telecommunications Regulation.
  - (e) Rates and Charges. 86-143, 86-144.
  - (h) Railroad Carrier Wire-Crossing Agreement. 86-164.
7. Telecommunications Rights-of-Way. 86-704.

#### ARTICLE 1

#### TELECOMMUNICATIONS REGULATION

##### (e) RATES AND CHARGES

Section

- 86-143. Local competition determination; rate list filing requirements.  
 86-144. No local competition; rate list filing requirements.

##### (h) RAILROAD CARRIER WIRE-CROSSING AGREEMENT

- 86-164. Telecommunications carrier; placement of line, wire, or cable across railroad right-of-way; application; petition; hearing; order; standard crossing fee; expenses; agreement.

##### (e) RATES AND CHARGES

#### **86-143 Local competition determination; rate list filing requirements.**

(1)(a) Except as provided in subdivision (b) of this subsection, in an exchange in which local competition exists, telecommunications companies shall file rate lists for each telecommunications service which shall be effective after ten days' notice to the commission.

(b) Notwithstanding any other provision of Chapter 86, a telecommunications company shall not be required to file rate lists, tariffs, or contracts for any telecommunications service, including local exchange and interexchange services, provided as a business service. Upon written notice to the commission, a telecommunications company may withdraw any rate list, tariff, or contract not required to be filed under this subdivision if the telecommunications company posts the rates, terms, and conditions of its telecommunications service on the company's web site.

(2) Local competition shall be deemed to exist in an exchange if a telecommunications company files an application with the commission requesting a determination as to whether local competition exists in one or more exchanges specified in the application and the commission enters an order after public notice and a hearing which determines that local competition exists in such exchange or exchanges. Notwithstanding any other provision of the Nebraska Telecommunications Regulation Act, the commission may consider any wireless telecommunications service provided in the exchange or exchanges when determining whether local competition exists.

(3) The notice of the hearing on the telecommunications company's application shall be given once each week for two consecutive weeks in a newspaper of general circulation in the affected area and shall state that a determination of

local competition may result in the freeing of the telecommunications company from rate regulation by the commission. The notice of the hearing on the commission's motion shall be sent to the telecommunications company by certified mail, return receipt requested, and notice of such hearing shall be published in a newspaper of general circulation in the exchange area. The hearing on the commission's motion shall be held no sooner than ten days after the receipt of notice by the telecommunications company.

(4) The commission may, on its own motion at any time after a determination as to whether local competition exists, reexamine and redetermine the determination after notice and a hearing on the issue.

**Source:** Laws 2002, LB 1105, § 42; Laws 2011, LB257, § 1.  
Effective date August 27, 2011.

**86-144 No local competition; rate list filing requirements.**

(1)(a) Except as provided in subdivision (b) of this subsection, in an exchange in which local competition does not exist, telecommunications companies shall file rate lists which, for all telecommunications service except for basic local exchange rates, shall be effective after ten days' notice to the commission.

(b) Notwithstanding any other provision of Chapter 86, a telecommunications company shall not be required to file rate lists, tariffs, or contracts for any telecommunications service, including local exchange and interexchange services, provided as a business service. Upon written notice to the commission, a telecommunications company may withdraw any rate list, tariff, or contract not required to be filed under this subdivision if the telecommunications company posts the rates, terms, and conditions of its telecommunications service on the company's web site.

(2) In an exchange in which local competition does not exist, basic local exchange rates may be increased by a telecommunications company only after ninety days' notice to all affected subscribers. Such notice of increase shall include (a) the reasons for the rate increase, (b) a description of the affected telecommunications service, (c) an explanation of the right of the subscriber to petition the commission for a public hearing on the rate increase, (d) a list of exchanges which are affected by the proposed rate increase, and (e) the dates, times, and places for the public informational meetings required by this section.

(3) A telecommunications company which proposes to increase its basic local exchange rates shall hold at least one public informational meeting in each public service commissioner district as established by section 75-101.01 in which there is an exchange affected by the proposed rate increase.

**Source:** Laws 2002, LB 1105, § 43; Laws 2011, LB257, § 2.  
Effective date August 27, 2011.

(h) RAILROAD CARRIER WIRE-CROSSING AGREEMENT

**86-164 Telecommunications carrier; placement of line, wire, or cable across railroad right-of-way; application; petition; hearing; order; standard crossing fee; expenses; agreement.**

(1) Any telecommunications carrier that intends to place a line, wire, or cable across a railroad right-of-way shall request permission for such placement from the railroad carrier. The request shall be in the form of a completed crossing

application, including engineering specifications. Upon receipt of such application, the railroad carrier and the telecommunications carrier may enter into a binding wire-crossing agreement. If the railroad carrier and the telecommunications carrier are unable to negotiate a binding wire-crossing agreement within sixty days after receipt of the crossing application by the railroad carrier, either party may submit a petition to the commission for a hearing on the disputed terms and conditions of the purported wire-crossing agreement.

(2)(a) Unless otherwise agreed to by all parties, the commission shall, after providing proper notice, hold and complete such hearing within sixty days after receipt of the petition. The commission shall issue an order of its decision within thirty days after the hearing. In rendering its decision, the commission shall consider whether the terms and conditions at issue are unreasonable or against the public interest, taking into account safety, engineering, and access requirements of the railroad carrier as such requirements are prescribed by the Federal Railroad Administration and established rail industry standards.

(b) Upon issuance of an order by the commission under subdivision (a) of this subsection, the railroad carrier and the telecommunications carrier shall have fifteen days after the date of issuance to file a conforming wire-crossing agreement with the commission. The commission shall have fifteen days after the date of such filing to approve or reject the agreement. If the commission does not issue an approval or rejection of such agreement within the fifteen-day requirement, the agreement shall be deemed approved. The commission may reject a wire-crossing agreement if it finds that the agreement does not conform to the order issued by the commission. If the commission enters such a finding, the parties shall revise the agreement to comply with the commission's order and shall refile the agreement to the commission for further review. If the commission does not approve or reject the revised agreement within fifteen days after the date of refiling, the agreement shall be deemed approved.

(3)(a) Except as provided in subsection (4) of this section or as otherwise agreed to by all parties, if a telecommunications carrier places a line, wire, or cable across a railroad right-of-way pursuant to this section, it shall pay the railroad carrier, owner, manager, agent, or representative of the railroad carrier a one-time standard crossing fee of one thousand two hundred fifty dollars for each applicable crossing. In addition to the standard crossing fee, the telecommunications carrier shall reimburse the railroad carrier for any actual flagging expenses associated with the placement of the line, wire, or cable.

(b) The standard crossing fee shall be in lieu of any license fee or any other fees or charges to reimburse the railroad carrier for any direct expense incurred as a result of the placement of the line, wire, or cable.

(4) If a railroad carrier or telecommunications carrier believes a special circumstance exists for the placement of a line, wire, or cable across a railroad right-of-way, the railroad carrier or telecommunications carrier may petition the commission for additional requirements or for modification of the standard crossing fee in its initial petition to the commission pursuant to subsection (1) of this section. If the petition is filed with the request for additional requirements or modification, the commission shall determine if a special circumstance exists that necessitates additional requirements for such placement or a modification of the standard crossing fee.

(5) This section applies to any telecommunications carrier certified by the commission pursuant to section 86-128. This section does not apply to any longitudinal encumbrance or any line, wire, or cable within any public right-of-way and does not change, modify, or supersede any rights or obligations created pursuant to sections 86-701 to 86-707.

(6)(a) A wire-crossing agreement between a railroad carrier and a telecommunications carrier that includes a provision, clause, covenant, or agreement contained in, collateral to, or affecting such wire-crossing agreement that purports to indemnify, defend, or hold harmless the railroad carrier from any liability for loss or damage resulting from the negligence or willful and wanton misconduct of the carrier or its agents, employees, or independent contractors who are directly responsible to such carrier or has the effect of indemnifying, defending, or holding harmless such carrier from the negligence or willful and wanton misconduct of the carrier or its agents, employees, or independent contractors who are directly responsible to the carrier is against the public policy of this state and is unenforceable.

(b) Nothing in this section shall affect a provision, clause, covenant, or agreement in which the telecommunications carrier indemnifies, defends, or holds harmless a railroad carrier against liability for loss or damage to the extent that the loss or damage results from the negligence or willful and wanton misconduct of the telecommunications carrier or its agents, employees, or independent contractors who are directly responsible to the telecommunications carrier.

(7) For purposes of this section:

(a) Railroad carrier has the same meaning as in section 75-402; and

(b) Telecommunications carrier means a telecommunications common carrier as defined in section 86-118 or a telecommunications contract carrier as defined in section 86-120.

**Source:** Laws 2010, LB181, § 2; Laws 2011, LB47, § 1.  
Effective date February 23, 2011.

## ARTICLE 7

### TELECOMMUNICATIONS RIGHTS-OF-WAY

Section

86-704. Telecommunications companies; right-of-way; wires; municipalities; powers and duties; increase in occupation tax; procedure; election.

#### **86-704 Telecommunications companies; right-of-way; wires; municipalities; powers and duties; increase in occupation tax; procedure; election.**

(1) Any telecommunications company, incorporated or qualified to do business in this state, is granted the right to construct, operate, and maintain telecommunications lines and related facilities along, upon, across, and under the public highways of this state, and upon and under lands in this state, whether state or privately owned, except that (a) such lines and related facilities shall be so constructed and maintained as not to interfere with the ordinary use of such lands or of such highways by the public and (b) all aerial wires and cables shall be placed at a height of not less than eighteen feet above all highway crossings.

(2) Sections 86-701 to 86-707 shall not transfer the rights now vested in municipalities in relation to the regulation of the poles, wires, cables, and other

appliances or authorize a telecommunications company to erect any poles or construct any conduit, cable, or other facilities along, upon, across, or under a public highway within a municipality without first obtaining the consent of the governing body of the municipality. The municipality shall not exercise any authority over any rights the telecommunications company may have to deliver telecommunications services as authorized by the Public Service Commission or the Federal Communications Commission.

(3) Consent from a governing body for the use of a public highway within a municipality shall be based upon a lawful exercise of its statutory and constitutional authority. Such consent shall not be unreasonably withheld, and a preference or disadvantage shall not be created through the granting or withholding of such consent. A municipality shall not adopt an ordinance that prohibits or has the effect of prohibiting the ability of a telecommunications company to provide telecommunications service.

(4)(a) A municipality shall not levy a tax, fee, or charge for any right or privilege of engaging in a telecommunications business or for the use by a telecommunications company of a public highway other than:

(i)(A) Until January 1, 2013, an occupation tax authorized under section 14-109, 15-202, 15-203, 16-205, or 17-525; and

(B) Beginning January 1, 2013, an occupation tax authorized under section 14-109, 15-202, 15-203, 16-205, or 17-525 that meets the following requirements:

(I) The occupation tax shall be imposed only on the receipts from the sale of telecommunications service as defined in subdivision (7)(aa) of section 77-2703.04; and

(II) The occupation tax shall not exceed six and twenty-five hundredths percent except as provided in subsection (5) of this section; and

(ii) A public highway construction permit fee or charge to the extent that the fee or charge applies to all persons seeking use of the public highway in a substantially similar manner. All public highway construction permit fees or charges shall be directly related to the costs incurred by the municipality in providing services relating to the granting or administration of permits. Any highway construction permit fee or charge shall also be reasonably related in time to the occurrence of such costs.

(b) Any tax, fee, or charge imposed by a municipality shall be competitively neutral.

(5) Beginning January 1, 2013, a municipality may increase an occupation tax described in subdivision (4)(a)(i)(B) of this section to a rate that exceeds the limit contained in subdivision (4)(a)(i)(B)(II) of this section if the question of whether to increase such rate has been submitted at a primary or general election at which members of the governing body of the municipality are nominated or elected or at a special election held within the municipality and in which all registered voters shall be entitled to vote on such question. A municipality may not increase its existing rate pursuant to this subsection by more than twenty-five hundredths percent at any one election. The officials of the municipality shall order the submission of the question by submitting a certified copy of the resolution proposing the rate increase to the election commissioner or county clerk at least fifty days before the election. The election shall be conducted in accordance with the Election Act. If a majority of the

votes cast upon such question are in favor of such rate increase, then the governing body of such municipality shall be empowered to impose the rate increase. If a majority of those voting on the question are opposed to such rate increase, then the governing body of the municipality shall not impose such rate increase.

(6) The changes made by Laws 1999, LB 496, shall not be construed to affect the terms or conditions of any franchise, license, or permit issued by a municipality prior to August 28, 1999, or to release any party from any obligations thereunder. Such franchises, licenses, or permits shall remain fully enforceable in accordance with their terms. A municipality may lawfully enter into agreements with franchise holders, licensees, or permittees to modify or terminate an existing franchise, license, or agreement.

(7) Taxes or fees shall not be collected by a municipality through the provision of in-kind services by a telecommunications company, and a municipality shall not require the provision of in-kind services as a condition of consent to the use of a public highway.

(8) The terms of any agreement between a municipality and a telecommunications company regarding use of public highways shall be matters of public record and shall be made available to any member of the public upon request, except that information submitted to a municipality by a telecommunications company which such telecommunications company determines to be proprietary shall be deemed to be a trade secret pursuant to subdivision (3) of section 84-712.05 and shall be accorded full protection from disclosure to third parties in a manner consistent with state law.

**Source:** Laws 1887, c. 87, § 1, p. 634; R.S.1913, § 7418; C.S.1922, § 7097; C.S.1929, § 86-301; Laws 1931, c. 158, § 1, p. 419; Laws 1941, c. 193, § 1, p. 762; C.S.Supp.,1941, § 86-301; Laws 1943, c. 231, § 1, p. 778; R.S.1943, § 86-301; Laws 1999, LB 496, § 1; R.S.1943, (1999), § 86-301; Laws 2002, LB 1105, § 409; Laws 2011, LB165, § 1.

Effective date August 27, 2011.

**Cross References**

**Election Act**, see section 32-101.

## CHAPTER 87

### TRADE PRACTICES

Article.

2. Trade Names. 87-208 to 87-220.

#### ARTICLE 2

##### TRADE NAMES

Section

- 87-208. Terms, defined.  
87-209. Trade name; not registered; when.  
87-210. Trade name; application for registration; requirements; Secretary of State.  
87-211. Trade name; registration; term effective; renewal; fee; statement.  
87-212. Trade name; assignment; recordation; fee.  
87-213. Secretary of State; record; public examination.  
87-214. Registration; Secretary of State; cancel; when.  
87-215. False representation or declaration; damages.  
87-216. Action for misuse; when.  
87-217. Injury to business; injunction; remedies; attorney's fees.  
87-218. Trade name; enforcement of rights.  
87-220. Repealed. Laws 2011, LB 462, § 20.

#### **87-208 Terms, defined.**

As used in sections 87-208 to 87-219.01, unless the context otherwise requires:

(1) Applicant means a person filing an application for registration of a trade name under such sections or his or her legal representatives, successors, or assigns;

(2) Person means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, unincorporated association, or two or more of the foregoing having a joint or common interest or any other legal or commercial entity;

(3) Registrant means a person to whom registration of a trade name under such sections is issued or his or her legal representatives, successors, or assigns; and

(4) Trade name means every name under which any person does or transacts any business in this state other than the true name of such person.

**Source:** Laws 1967, c. 628, § 1, p. 2099; Laws 1971, LB 486, § 1; Laws 1993, LB 121, § 556; Laws 1997, LB 453, § 6; Laws 2011, LB462, § 8.  
Effective date August 27, 2011.

#### **87-209 Trade name; not registered; when.**

A trade name shall not be registered if it:

(1) Consists of or comprises immoral, deceptive, or scandalous matter;

(2) Consists of or comprises matter which may disparage, bring into contempt or disrepute, or falsely suggest a connection with, persons living or dead, institutions, beliefs, or national symbols;

(3) Consists of, comprises, or simulates the flag or coat of arms or other insignia of the United States, any state or municipality, or any foreign nation;

(4) Consists of or comprises the name, signature, or portrait of any living individual without his or her consent;

(5)(a) Is merely descriptive or misdescriptive, or is primarily geographically descriptive or geographically misdescriptive as applied to the business of the applicant, or (b) is primarily merely a surname, but nothing in this subdivision shall prevent the registration of a trade name which has become distinctive of the applicant's business in this state. The Secretary of State may accept as evidence that a trade name has become distinctive proof of continuous use by the applicant as a trade name in this state or elsewhere for five years preceding the date of the filing of the application for registration;

(6) Consists of or comprises a trade name which so resembles a trade name registered under sections 87-208 to 87-219.01, registered in this state, or the name of a business entity on file or registered with the Secretary of State pursuant to Nebraska law as to be likely to cause confusion, mistake, or deception of purchasers, except that a name, although similar, may be used if the business entity affected consents in writing and such writing is filed with the Secretary of State. The word incorporated, inc., or corporation shall not be a part of the trade name being registered unless the firm is duly incorporated in the State of Nebraska or some other state; or

(7) Consists of the word geologist or any modification or derivative of such word, and the applicant does not meet the requirements of subsection (6) of section 81-3528.

**Source:** Laws 1967, c. 628, § 2, p. 2100; Laws 1969, c. 856, § 2, p. 3225; Laws 1971, LB 486, § 2; Laws 1997, LB 44, § 12; Laws 1997, LB 453, § 7; Laws 1998, LB 1161, § 91; Laws 2011, LB462, § 9. Effective date August 27, 2011.

**87-210 Trade name; application for registration; requirements; Secretary of State.**

(1) Subject to the limitations set forth in sections 87-208 to 87-219.01, any person who adopts a trade name for use in this state may file in the office of the Secretary of State on a form furnished by the Secretary of State an application, in duplicate, for registration of the trade name setting forth, but not limited to, the following information:

(a) The name and street address of the applicant for registration; and, if a corporation, the state of incorporation;

(b) The trade name sought to be registered;

(c) The general nature of the business in fact conducted by the applicant;

(d) The length of time during which the trade name has been used in this state;

(e) The signature of the applicant; and

(f) A filing fee of one hundred dollars.



(2) Upon compliance by the applicant with the requirements of sections 87-208 to 87-219.01, the Secretary of State shall return the duplicate copy stamped with the date of filing to the applicant or the representative submitting the applications for filing.

**Source:** Laws 1967, c. 628, § 3, p. 2100; Laws 1971, LB 486, § 3; Laws 1975, LB 95, § 9; Laws 1982, LB 928, § 78; Laws 1997, LB 453, § 8; Laws 2005, LB 450, § 1; Laws 2011, LB462, § 10.  
Effective date August 27, 2011.

**87-211 Trade name; registration; term effective; renewal; fee; statement.**

Registration of a trade name under sections 87-208 to 87-219.01 shall be effective for a term of ten years from the date of registration and, upon application filed in duplicate within six months prior to the expiration of such term on a form to be furnished by the Secretary of State, the registration may be renewed for a like term. A renewal fee of one hundred dollars payable to the Secretary of State shall accompany the application for renewal of the registration.

A trade name registration may be renewed for successive periods of ten years in like manner.

The Secretary of State shall notify registrants of trade names under sections 87-208 to 87-219.01 of the necessity of renewal within the year next preceding the expiration of the ten years from the date of registration or of last renewal by writing to the last-known street address of the registrants.

Any registration in force on August 27, 1971, shall expire ten years from the date of the registration or of the last renewal thereof, whichever is later, and may be renewed by filing an application with the Secretary of State on a form furnished by him or her and paying the renewal fee as provided in this section within six months prior to the expiration of the registration.

All applications for renewals under sections 87-208 to 87-219.01 whether of registrations made under sections 87-208 to 87-219.01 or of registrations effected under any prior act shall include a statement that the trade name is still in use in this state.

**Source:** Laws 1967, c. 628, § 4, p. 2101; Laws 1971, LB 486, § 4; Laws 1975, LB 95, § 10; Laws 1984, LB 1016, § 1; Laws 1997, LB 453, § 9; Laws 2011, LB462, § 11.  
Effective date August 27, 2011.

**87-212 Trade name; assignment; recordation; fee.**

Any trade name registered under sections 87-208 to 87-219.01 shall be assignable with the goodwill of the business in which the trade name is used. Assignment shall be by an instrument in writing duly executed, in duplicate, and may be recorded with the Secretary of State upon the payment of a fee of five dollars. The street address, city, and state of the assignee must be included in the assignment. Upon recording of the assignment, the Secretary of State shall return the duplicate copy stamped with the date of filing to the applicant or the representative submitting the applications for filing. An assignment of any registration under sections 87-208 to 87-219.01 shall be void as against any

subsequent purchaser for value without notice unless the assignment is recorded with the Secretary of State prior to the subsequent purchase.

**Source:** Laws 1967, c. 628, § 5, p. 2101; Laws 1969, c. 856, § 3, p. 3226; Laws 1997, LB 453, § 10; Laws 2011, LB462, § 12.  
Effective date August 27, 2011.

**87-213 Secretary of State; record; public examination.**

The Secretary of State shall keep for public examination a record of all trade names registered or renewed under sections 87-208 to 87-219.01.

**Source:** Laws 1967, c. 628, § 6, p. 2102; Laws 1997, LB 453, § 11; Laws 2011, LB462, § 13.  
Effective date August 27, 2011.

**87-214 Registration; Secretary of State; cancel; when.**

The Secretary of State shall cancel from the register:

(1) Any registration concerning which the Secretary of State shall receive a voluntary request for cancellation from the registrant or the assignee of record;

(2) Any registration granted under sections 87-208 to 87-219.01 and not renewed in accordance with such sections;

(3) Any registration concerning which a court of competent jurisdiction shall find:

(a) That the registered trade name has been abandoned;

(b) That the registrant is not the owner of the trade name;

(c) That the registration was granted improperly; or

(d) That the registration was obtained fraudulently;

(4) Any registration that a court of competent jurisdiction shall order canceled on any ground; and

(5) Any registration where the registrant has failed to publish such trade name within forty-five days from the filing in the office of the Secretary of State and filing proof of publication with the Secretary of State and county clerk within the forty-five days.

**Source:** Laws 1967, c. 628, § 7, p. 2102; Laws 1997, LB 453, § 12; Laws 2010, LB690, § 1; Laws 2011, LB462, § 14.  
Effective date August 27, 2011.

**87-215 False representation or declaration; damages.**

Any person who, for himself or herself or on behalf of any other person, procures the registration of any trade name in the office of the Secretary of State under the provisions of sections 87-208 to 87-219.01, by knowingly making any false or fraudulent representation or declaration, verbally or in writing, or by any other fraudulent means, shall be liable to pay all damages sustained in consequence of this filing or registration, to be recovered by any party injured in any court of competent jurisdiction.

**Source:** Laws 1967, c. 628, § 8, p. 2102; Laws 1997, LB 453, § 13; Laws 2011, LB462, § 15.  
Effective date August 27, 2011.

**87-216 Action for misuse; when.**

Subject to section 87-218, any person shall be liable to a civil action by the registrant of the trade name for any or all of the remedies provided in section 87-217 if that person shall:

(1) Use in connection with his or her business, without the consent of the registrant, any reproduction, counterfeit, copy, or colorable imitation of a trade name registered under sections 87-208 to 87-219.01 in a manner likely to cause confusion, mistake, or deception of purchasers; or

(2) Reproduce, counterfeit, copy, or colorably imitate any registered trade name and apply the reproduction, counterfeit, copy, or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be in conjunction with another business in this state; except that the registrant shall not be entitled to recover profits or damages unless the acts were committed with knowledge that the imitation was intended to be used to cause confusion, mistake, or deception of purchasers.

**Source:** Laws 1967, c. 628, § 9, p. 2103; Laws 1997, LB 453, § 14; Laws 2011, LB462, § 16.  
Effective date August 27, 2011.

**87-217 Injury to business; injunction; remedies; attorney's fees.**

Any registrant of a trade name may proceed by suit to enjoin the use, display, or sale of any counterfeits or imitations thereof, and a court of competent jurisdiction may restrain such use, display, or sale on terms which the court deems just and reasonable and may require the defendants to pay to the registrant (1) all profits attributable to the wrongful use, display, or sale, (2) all damages caused by the wrongful use, display, or sale, or (3) both such profits and damages, and reasonable attorney's fees. In lieu of the remedies available in subdivisions (1), (2), and (3) of this section, the court may require the defendants to pay statutory damages of one thousand dollars and reasonable attorney's fees. The court may order that any counterfeits or imitations in the possession or under the control of any defendant be delivered to an officer of the court, or to the complainant, to be destroyed.

**Source:** Laws 1967, c. 628, § 10, p. 2103; Laws 1997, LB 453, § 15; Laws 2011, LB462, § 17.  
Effective date August 27, 2011.

**87-218 Trade name; enforcement of rights.**

Sections 87-208 to 87-219.01 shall not adversely affect rights in trade names, or the enforcement of rights in trade names, acquired at any time in good faith at common law.

**Source:** Laws 1967, c. 628, § 11, p. 2104; Laws 1997, LB 453, § 16; Laws 2011, LB462, § 18.  
Effective date August 27, 2011.

**87-220 Repealed. Laws 2011, LB 462, § 20.**



## CHAPTER 90 SPECIAL ACTS

Article.

1. State, General Provisions. 90-115.
2. Specific Conveyances. 90-274 to 90-277.
5. Appropriations. 90-517, 90-519.

### ARTICLE 1

#### STATE, GENERAL PROVISIONS

Section

90-115. Nebraska Educational Telecommunications Building in Lincoln; named the Terry M. Carpenter and Jack G. McBride Educational Telecommunications Building.

**90-115 Nebraska Educational Telecommunications Building in Lincoln; named the Terry M. Carpenter and Jack G. McBride Educational Telecommunications Building.**

The Nebraska Educational Telecommunications Building in Lincoln, Nebraska, shall be named and known as the Terry M. Carpenter and Jack G. McBride Educational Telecommunications Building.

**Source:** Laws 1978, LB 955, § 2; Laws 2011, LB122, § 1.  
Effective date August 27, 2011.

### ARTICLE 2

#### SPECIFIC CONVEYANCES

Section

- 90-274. Game and Parks Commission; convey property to village of Ayr.  
 90-275. Game and Parks Commission; convey property to county of Sherman.  
 90-276. Game and Parks Commission; convey property to village of Brownville.  
 90-277. Property conveyed to Brownville; management.

**90-274 Game and Parks Commission; convey property to village of Ayr.**

The Game and Parks Commission is authorized to convey to the village of Ayr for public park purposes the following described real estate, now known as Crystal Lake State Recreation Area, situated in the county of Adams, in the State of Nebraska, to wit:

(1) That part of the southeast quarter of section 28, township 6 north, range 10 west of the 6th principal meridian, in Adams County, Nebraska, described as follows: Begin at a stone at the northeast corner of the southeast quarter of section 28, township 6 north, range 10 west; thence south along the section line 254 feet to a point where the south right-of-way line of the Burlington-Northern Railroad intersects the said section line, said point being the point of beginning for the parcel herein conveyed; thence northwesterly along the south right-of-way line of the Burlington-Northern Railroad, 648 feet to an iron pin; thence left 95 degrees, 28 minutes, 414.7 feet to an iron pin; thence left 38 degrees, 21 minutes, 324.2 feet; thence right 57 degrees, 15 minutes, 805.8 feet to an iron

pin; thence right 60 degrees, 13 minutes, 48.9 feet to an iron pin; thence left 51 degrees, 20 minutes, 1,026.7 feet to an iron pin; thence left 62 degrees, 21 minutes, 208.9 feet to an iron pin on the south side of section 28; thence left 58 degrees, 38 minutes, 186.5 feet along the section line to an iron pin; thence left 48 degrees, 22 minutes, 371.7 feet to an iron pin; thence left 21 degrees, 30 minutes, 574 feet to an iron pin; thence right 70 degrees, 20 minutes, 605.8 feet to an iron pin on the section line between sections 27 and 28; thence north along said section line 1,588 feet to the point of beginning, containing 32.79 acres more or less;

(2) That part of the southwest quarter of section 27, township 6 north, range 10 west, in Adams County, Nebraska, described as follows: Begin at a stone at the northwest corner of the southwest quarter of section 27, township 6 north, range 10 west; thence south along the section line 254 feet to a point where the south right-of-way line of the Burlington-Northern Railroad intersects the said section line, said point being the point of beginning for the parcel herein conveyed; thence southeasterly along the south right-of-way line of said railroad 265.7 feet to an iron pin; thence right 81 degrees, 14 minutes, 272 feet to an iron pin; thence left 52 degrees, 50 minutes, 151 feet to an iron pin; thence left 12 degrees, 165 feet to an iron pin; thence right 19 degrees, 06 minutes, 211.5 feet to an iron pin; thence right 6 degrees, 36 minutes, 132 feet to an iron pin; thence right 6 degrees, 34 minutes, 198.2 feet to an iron pin; thence left 6 degrees, 35 minutes, 198 feet to an iron pin; thence right 10 degrees, 22 minutes, 132.3 feet to an iron pin; thence right 13 degrees, 54 minutes, 132 feet to an iron pin; thence right 7 degrees, 15 minutes, 132 feet; thence right 13 degrees, 05 minutes, 120.5 feet; thence left 15 degrees, 28 minutes, 131.8 feet; thence right 31 degrees, 10 minutes, 66 feet; thence right 34 degrees, 14 minutes, 99 feet; thence right 23 degrees, 04 minutes, 157.8 feet; thence right 19 degrees, 19 minutes, 264 feet; thence right 9 degrees, 20 minutes, 642.6 feet to a point on the north and south dividing line between sections 27 and 28 and 812 feet north of the southwest corner of section 27; thence north along the section line, 1,588 feet to the place of beginning, containing 30.22 acres; and

(3) That part of the southwest quarter of section 27, township 6 north, range 10 west of the 6th principal meridian, in Adams County, Nebraska, more particularly described as follows: To ascertain the point of beginning, begin at the northwest corner of the southwest quarter of section 27, township 6 north, range 10 west; thence south along the section line 254 feet to the point where the south right-of-way line of the Burlington-Northern Railroad intersects the said section line; thence southeasterly along the south right-of-way line of said railroad 265.70 feet; thence deflecting right 81 degrees, 14 minutes, for a distance of 55.63 feet to the actual point of beginning; thence continuing on the same course 216.37 feet; thence deflecting left 52 degrees, 50 minutes, for a distance of 38.57 feet; thence deflecting left 127 degrees, 01 minute for a distance of 130.48 feet; thence deflecting left 8 degrees, 40 minutes, for a distance of 59.87 feet; thence deflecting left 15 degrees, 24 minutes, for a distance of 54.80 feet to the actual point of beginning and containing 0.154 acres, a little more or a little less as surveyed by Edwin D. Benjamin.

If the village of Ayr ceases to operate the lands conveyed as a public park and recreation area, title to such lands shall revert to the Game and Parks Commission.

**Source:** Laws 2011, LB563, § 1.

Effective date April 15, 2011.

**90-275 Game and Parks Commission; convey property to county of Sherman.**

The Game and Parks Commission is authorized to convey to the county of Sherman for public park purposes the following described real estate, now known as Bowman State Recreation Area, situated in the county of Sherman, in the State of Nebraska, to wit:

(1) A tract of land in the northwest quarter of section 13, township 15 north, range 15 west of the 6th principal meridian, in Sherman County, Nebraska, more particularly described as follows: Commencing at a point on the line between sections 13 and 14, township 15 north, range 15 west of the 6th principal meridian, at a point 33 feet south of the corner of sections 11, 12, 13, and 14, township 15 north, range 15 west of the 6th principal meridian, and running thence east on a line parallel with the line between sections 12 and 13, township 15 north, range 15 west of the 6th principal meridian, and 33 feet distant, 995.94 feet, thence south 14 degrees, 15 minutes east 1252.35 feet, thence south 37 degrees east 488.06 feet, thence south 59 degrees, 45 minutes east 132.99 feet, thence south 86 degrees west 974.16 feet to the left bank of the Middle Loup River, thence in a northwesterly direction along the left bank of the stream, 1201.86 feet to a point on the line between sections 13 and 14 aforesaid 917.40 feet south of said corner of sections 11, 12, 13, and 14, thence north on the line between sections 13 and 14, 884.40 feet to the point of beginning, containing 43.06 acres, more or less; and

(2) A tract of land in the northwest quarter of section 13, township 15 north, range 15 west of the 6th principal meridian, in Sherman County, Nebraska, more particularly described as follows: Commencing at the east quarter corner of said section 13, township 15 north, range 15 west of the 6th principal meridian; thence southerly on said section line a distance of 910.56 feet; thence northwesterly with a deflection angle of 117 degrees, 42 minutes, a distance of 3492.39 feet to the point of beginning, this point of beginning being marked by an iron stake and being the southeast corner of a tract of land conveyed to the State of Nebraska by warranty deed from John Haesler and Bertha Haesler, husband and wife, dated October 30, 1930, and recorded April 29, 1931, in Book 43 at Page 151 of Deed Records; thence southwesterly with a bearing of south 46 degrees, 10 minutes, west 699.13 feet to a point on the left bank of the Middle Loup River; thence northwesterly along the left bank of said Middle Loup River with a bearing of north 46 degrees, 0 minutes, west 602.55 feet; thence easterly, on the south line of said tract, on a bearing north 86 degrees, 0 minutes, east a distance of 940 feet to the point of beginning; containing 4.83 acres, more or less.

**Source:** Laws 2011, LB207, § 1.

Effective date April 15, 2011.

**90-276 Game and Parks Commission; convey property to village of Brownville.**

The Game and Parks Commission is authorized to convey to the village of Brownville, Nebraska, for public park purposes the following described real estate now known as Brownville State Recreation Area, situated in the county of Nemaha, in the State of Nebraska, to wit:

(1) From the southeast corner of Block 1 in the Original Town of Brownville, Nebraska, running east parallel to the center line of Main Street a distance of 237.1 feet to the place of beginning, said place of beginning being 90 feet east

of the center line of the C.B. & Q. R.R. track; thence south 6 degrees, 26 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 7 degrees, 11 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 7 degrees, 24 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 7 degrees, 16 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 7 degrees, 12 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 6 degrees, 35 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 5 degrees, 00 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 3 degrees, 58 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 2 degrees, 26 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 1 degree, 11 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 0 degrees, 03 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 0 degrees, 42 minutes west, parallel to the C.B. & Q. R.R. track, a distance of 60.3 feet to a point, said point being 90 feet east of the center line of the C.B. & Q. R.R. track; thence east 860.4 feet to a point on the right high mark of the Missouri River; thence north 27 degrees, 14 minutes west along the said high bank of the Missouri River, a distance of 199.9 feet to a point; thence north 21 degrees, 39 minutes west along the said high bank of the Missouri River a distance of 635.51 feet to a point; thence north 18 degrees, 50 minutes west along said high bank of the Missouri River a distance of 408.21 feet to a point; thence west 497.90 feet to the place of beginning, all in Nemaha County, Nebraska, containing 17.20 acres, more or less, plus all accretions thereto; and

(2) Commencing at the southeast corner of Block 1 in the Original Town of Brownville, Nebraska, running east parallel to the center line of Main Street a distance of 237.1 feet to a point, said point being 90 feet east of the center line of the C.B. & Q. R.R. track; thence south 6 degrees, 26 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 7 degrees, 11 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 7 degrees, 24 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 7 degrees, 16 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 7 degrees, 12 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 6 degrees, 35 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 5 degrees, 00 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 3 degrees, 58 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 2 degrees, 26 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 1 degree, 11 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 0 degrees, 03 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 100 feet to a point; thence south 0 degrees, 42 minutes west, parallel to the C.B. & Q. R.R. track, a distance of 60.3 feet to a point, said point being 90 feet east of the center line of the C.B. & Q. R.R. track, being the place of beginning; thence south 2 degrees, 04 minutes east, parallel to the C.B. & Q. R.R. track, a distance of 52.5 feet to a point; thence south 4 degrees, 46 minutes west, parallel to the C.B. & Q. R.R.



track, a distance of 100 feet to a point; thence south 9 degrees, 48 minutes west, parallel to the C.B. & Q. R.R. track, a distance of 46.4 feet to a point; said point being 90 feet east of the center line of the C.B. & Q. R.R. track and on the section line between sections 18 and 19, township 5 north, range 16 east of the 6th principal meridian; thence north 88 degrees, 42 minutes east along the section line between sections 18 and 19, township 5 north, range 16 east, a distance of 906.9 feet to the corners of sections 17, 18, 19, and 20, township 5 north, range 16 east; thence continuing north 88 degrees, 42 minutes east along the section line between sections 17 and 20, township 5 north, range 16 east, a distance of 449.4 feet to a point on the right high bank of the Missouri River; thence north 34 degrees, 17 minutes west along said right high bank of the said Missouri River, a distance of 202.41 feet to a point; thence west a distance of 1,224.44 feet to the place of beginning, containing 5.41 acres, more or less, all in Nemaha County, Nebraska, plus all accretions thereto.

The above described tract being immediately south of the tract described and recorded in Book number 79, page 398 of the Deed records of Nemaha County, Nebraska.

**Source:** Laws 2011, LB621, § 1.  
Effective date April 15, 2011.

**90-277 Property conveyed to Brownville; management.**

Property conveyed by the Game and Parks Commission pursuant to section 90-276 is conveyed with the intent that the property continue to be managed for public access and for public outdoor recreation opportunities, in a safe and sanitary manner, and in compliance with all relevant provisions and responsibilities outlined within prior covenants, easements, and agreements hereby transferred, including continued maintenance of the federally funded public boating access facilities existing on the property, which is specifically assigned through 2013.

**Source:** Laws 2011, LB621, § 2.  
Effective date April 15, 2011.

**ARTICLE 5  
APPROPRIATIONS**

Section  
90-517. State aid for community college areas.  
90-519. State Department of Education.

**90-517 State aid for community college areas.**

(1) Notwithstanding the Community College Foundation and Equalization Aid Act or any other provision of law, state aid for each community college area for fiscal year 2010-11 shall equal:

- (a) For the Central Community College Area, \$8,289,499;
- (b) For the Metropolitan Community College Area, \$18,389,499;
- (c) For the Mid-Plains Community College Area, \$8,251,373;
- (d) For the Northeast Community College Area, \$12,784,454, including \$38,815 for Nebraska Indian Community College and \$13,120 for Little Priest Tribal College;
- (e) For the Southeast Community College Area, \$27,133,220; and

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(f) For the Western Community College Area, \$11,909,980.

(2) Notwithstanding any other provision of law, state aid for each community college area for fiscal years 2011-12 and 2012-13 shall equal the amount of state aid appropriated by the Legislature for the respective fiscal year multiplied by the following percentage for each community college area:

(a) For the Central Community College Area, eight and eighty-six hundredths percent;

(b) For the Metropolitan Community College Area, twenty-six and fifty-one hundredths percent;

(c) For the Mid-Plains Community College Area, nine and five-hundredths percent;

(d) For the Northeast Community College Area, fourteen and four-hundredths percent. Of such amount provided for the Northeast Community College Area, one-tenth of one percent shall be provided for Nebraska Indian Community College and two-tenths of one percent for Little Priest Tribal College;

(e) For the Southeast Community College Area, twenty-eight and twenty-seven hundredths percent; and

(f) For the Western Community College Area, thirteen and twenty-seven hundredths percent.

(3) The Department of Administrative Services shall distribute the amounts provided in subsection (1) or (2) of this section for the respective fiscal year to each community college area in ten as nearly as possible equal monthly payments between the fifth and the twentieth day of each month beginning in September of each year.

**Source:** Laws 2010, LB1072, § 10; Laws 2011, LB59, § 8.  
Effective date February 23, 2011.

Cross References

Community College Foundation and Equalization Aid Act, see section 85-2201.

**90-519 State Department of Education.**

AGENCY NO. 13 — STATE DEPARTMENT OF EDUCATION

Program No. 158 - Education Aid

	FY2009-10	FY2010-11
GENERAL FUND	1,034,668,501	1,004,011,278
CASH FUND	3,290,938	3,290,938
FEDERAL FUND est.	373,683,935	431,176,314
PROGRAM TOTAL	1,411,643,374	1,438,478,530

There is included in the appropriation to this program for FY2009-10 \$1,034,668,501 General Funds, \$3,290,938 Cash Funds, and \$373,683,935 Federal Funds estimate for state aid, which shall only be used for such purpose. There is included in the appropriation to this program for FY2010-11 \$1,004,011,278 General Funds, \$3,290,938 Cash Funds, and \$431,176,314 Federal Funds estimate for state aid, which shall only be used for such purpose.

There is included in the amount shown for FY2009-10 \$824,960,159 General Funds which are hereby appropriated to the Tax Equity and Educational Opportunities Fund, which fund is hereby appropriated to provide state aid to public school districts pursuant to the Tax Equity and Educational Opportuni-

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ties Support Act. There is included in the amount shown for FY2010-11 \$795,941,720 General Funds which are hereby appropriated to the Tax Equity and Educational Opportunities Fund, which fund is hereby appropriated to provide state aid to public school districts pursuant to the Tax Equity and Educational Opportunities Support Act.

There is included in the amount shown for FY2009-10 \$93,668,750 Federal Funds estimate pursuant to the American Recovery and Reinvestment Act of 2009 which are hereby appropriated to the Tax Equity and Educational Opportunities Fund, which fund is hereby appropriated to provide state aid to public school districts pursuant to the Tax Equity and Educational Opportunities Support Act. There is included in the amount shown for FY2010-11 \$140,287,176 Federal Funds estimate pursuant to the American Recovery and Reinvestment Act of 2009 which are hereby appropriated to the Tax Equity and Educational Opportunities Fund, which fund is hereby appropriated to provide state aid to public school districts pursuant to the Tax Equity and Educational Opportunities Support Act.

There is included in the amount shown for this program \$184,893,842 General Funds provided as state aid for FY2009-10 for special education reimbursement. There is included in the amount shown for this program \$184,893,842 General Funds provided as state aid for FY2010-11 for special education reimbursement.

There is included in the amount shown for this program \$487,500 General Funds provided as state aid for FY2009-10 and \$465,500 General Funds provided as state aid for FY2010-11 to carry out the provisions of subsection (2) of section 79-734.

There is included in the amount shown for this program \$3,604,328 General Funds provided as state aid for FY2009-10 and \$3,365,962 General Funds provided as state aid for FY2010-11 for early childhood education projects.

There is included in the amount shown for this program \$11,858,793 General Funds provided as state aid for FY2009-10 and \$11,040,536 General Funds provided as state aid for FY2010-11 for core services for educational service units.

There is included in the amount shown for this program \$3,700,477 General Funds provided as state aid for FY2009-10 and \$3,445,144 General Funds provided as state aid for FY2010-11 for technology infrastructure for educational service units.

There is included in the amount shown for this program \$328,300 General Funds provided as state aid for FY2009-10 and \$305,647 General Funds provided as state aid for FY2010-11 for distance education aid to educational service units.

There is included in the amount shown for this program \$2,336,921 General Funds provided as state aid for FY2009-10 and \$2,175,673 General Funds provided as state aid for FY2010-11 for programs for learners with high ability.

There is included in the amount shown for this program \$412,811 General Funds provided as state aid for FY2009-10 and \$438,283 General Funds provided as state aid for FY2010-11 for the school breakfast program.

There is included in the amount shown for this program \$410,560 General Funds provided as state aid for FY2009-10 and \$392,032 General Funds provided as state aid for FY2010-11 for the school lunch program.

There is included in the amount shown for this program \$224,810 General Funds provided as state aid for FY2009-10 and \$214,664 General Funds provided as state aid for FY2010-11 for adult basic education programs.

There is included in the amount shown for this program \$450,000 General Funds provided as state aid for FY2009-10 and \$450,000 General Funds provided as state aid for FY2010-11 for the Career Education Partnership Act.

There is included in the amount shown for this program \$1,000,000 General Funds provided as state aid for FY2009-10 and \$882,275 General Funds provided as state aid for FY2010-11 for learning community aid.

On or before October 1 of each year, the Department of Health and Human Services and the State Department of Education shall jointly certify to the budget administrator of the budget division of the Department of Administrative Services the amount of federal medicaid funds paid to school districts pursuant to the Early Intervention Act for special education services for children age five years and older. The General Fund appropriation to the State Department of Education, Program 158, for state special education aid shall be decreased by an amount equal to the amount that would have been reimbursed with state General Funds to the school districts through the special education reimbursement process for special education services for children age five years and older that was paid to school districts or approved cooperatives with federal medicaid funds. There is hereby appropriated from the General Fund an amount equal to the amount certified to the budget administrator for FY2009-10 and FY2010-11 to the Department of Health and Human Services to aid in carrying out the provisions of Laws 1991, LB 701. The budget administrator shall distribute the amount appropriated between budget programs according to percentages certified by the Department of Health and Human Services.

Notwithstanding other provisions of this act, all appropriations within this program existing on June 30, 2009, in excess of expended or encumbered amounts are hereby lapsed.

The unexpended General Fund appropriation balance existing on June 30, 2010, less \$47,596, is hereby reappropriated.

**Source:** Laws 2010, LB935, § 128; Laws 2010, LB937A, § 1; Laws 2011, LB373, § 33.

Effective date May 18, 2011.

**Cross References**

**Early Intervention Act**, see section 43-2501.

**Tax Equity and Educational Opportunities Support Act**, see section 79-1001.

## UNIFORM COMMERCIAL CODE

Article.

2A. Leases.

Part 1. General Provisions. 2A-103.

9. Secured Transactions.

Part 1. General Provisions.

Subpart 1. Short Title, Definitions, and General Concepts. 9-102, 9-105.

Part 3. Perfection and Priority.

Subpart 1. Law Governing Perfection and Priority. 9-304, 9-307.

Subpart 2. Perfection. 9-309 to 9-316.

Subpart 3. Priority. 9-317, 9-326.

Part 4. Rights of Third Parties. 9-406, 9-408.

Part 5. Filing.

Subpart 1. Filing Office; Contents and Effectiveness of Financing Statement. 9-502 to 9-518.

Subpart 2. Duties and Operation of Filing Office. 9-521, 9-531.

Part 6. Default.

Subpart 1. Default and Enforcement of Security Interest. 9-607.

Part 8. Transition Provisions for 2011 Amendments. 9-801 to 9-809.

### ARTICLE 2A

#### LEASES

##### Part 1. GENERAL PROVISIONS

Section

2A-103. Definitions and index of definitions.

##### Part 1

##### GENERAL PROVISIONS

#### **2A-103 Definitions and index of definitions.**

(1) In this article unless the context otherwise requires:

(a) “Buyer in ordinary course of business” means a person who in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. “Buying” may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) “Cancellation” occurs when either party puts an end to the lease contract for default by the other party.

(c) “Commercial unit” means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose, if the total payments to be made under the lease contract, excluding payments for options to renew or buy, do not exceed twenty-five thousand dollars.

(f) "Fault" means wrongful act, omission, breach, or default.

(g) "Finance lease" means a lease with respect to which:

(i) the lessor does not select, manufacture, or supply the goods;

(ii) the lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and

(iii) one of the following occurs:

(A) the lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

(B) the lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;

(C) the lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; or

(D) if the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing (a) of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person, (b) that the lessee is entitled under this article to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods, and (c) that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (section 2A-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this article and the sections in which they appear are:

"Accessions".	Section 2A-310(1).
"Construction mortgage".	Section 2A-309(1)(d).
"Encumbrance".	Section 2A-309(1)(e).
"Fixtures".	Section 2A-309(1)(a).
"Fixture filing".	Section 2A-309(1)(b).
"Purchase money lease".	Section 2A-309(1)(c).

(3) The following definitions in other articles apply to this article:

"Account".	Section 9-102(a)(2).
"Between merchants".	Section 2-104(3).
"Buyer".	Section 2-103(1)(a).
"Chattel paper".	Section 9-102(a)(11).
"Consumer goods".	Section 9-102(a)(23).
"Document".	Section 9-102(a)(30).
"Entrusting".	Section 2-403(3).
"General intangible".	Section 9-102(a)(42).
"Good faith".	Section 2-103(1)(b).
"Instrument".	Section 9-102(a)(47).
"Merchant".	Section 2-104(1).
"Mortgage".	Section 9-102(a)(55).
"Pursuant to commitment".	Section 9-102(a)(69).
"Receipt".	Section 2-103(1)(c).
"Sale".	Section 2-106(1).
"Sale on approval".	Section 2-326.
"Sale or return".	Section 2-326.
"Seller".	Section 2-103(1)(d).

(4) In addition, article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

**Source:** Laws 1991, LB 159, § 5; Laws 1999, LB 550, § 59; Laws 2005, LB 570, § 42; Laws 2011, LB90, § 1.

Operative date July 1, 2013.

**ARTICLE 9**

**SECURED TRANSACTIONS**

Part 1. GENERAL PROVISIONS

Subpart 1. SHORT TITLE, DEFINITIONS, AND GENERAL CONCEPTS

Section

9-102. Definitions and index of definitions.

9-105. Control of electronic chattel paper.



## **SECURED TRANSACTIONS**

Section

### **Part 3. PERFECTION AND PRIORITY**

#### **Subpart 1. LAW GOVERNING PERFECTION AND PRIORITY**

- 9-304. Law governing perfection and priority of security interests in deposit accounts.
- 9-307. Location of debtor.

#### **Subpart 2. PERFECTION**

- 9-309. Security interest perfected upon attachment.
- 9-311. Perfection of security interests in property subject to certain statutes, regulations, and treaties.
- 9-316. Effect of change in governing law.

#### **Subpart 3. PRIORITY**

- 9-317. Interests that take priority over or take free of security interest or agricultural lien.
- 9-326. Priority of security interests created by new debtor.

### **Part 4. RIGHTS OF THIRD PARTIES**

- 9-406. Discharge of account debtor; notification of assignment; identification and proof of assignment; restrictions on assignment of accounts, chattel paper, payment intangibles, and promissory notes ineffective.
- 9-408. Restrictions on assignment of promissory notes, health-care-insurance receivables, and certain general intangibles ineffective.

### **Part 5. FILING**

#### **Subpart 1. FILING OFFICE; CONTENTS AND EFFECTIVENESS OF FINANCING STATEMENT**

- 9-502. Contents of financing statement; record of mortgage as financing statement; time of filing financing statement.
- 9-503. Name of debtor and secured party.
- 9-506. Effect of errors or omissions.
- 9-507. Effect of certain events on effectiveness of financing statement.
- 9-515. Duration and effectiveness of financing statement; effect of lapsed financing statement.
- 9-516. What constitutes filing; effectiveness of filing.
- 9-518. Claim concerning inaccurate or wrongfully filed record.

#### **Subpart 2. DUTIES AND OPERATION OF FILING OFFICE**

- 9-521. Uniform form of written financing statement and amendment.
- 9-531. Uniform Commercial Code Cash Fund; created; use; Secretary of State; duties; fees.

### **Part 6. DEFAULT**

#### **Subpart 1. DEFAULT AND ENFORCEMENT OF SECURITY INTEREST**

- 9-607. Collection and enforcement by secured party.

### **Part 8. TRANSITION PROVISIONS FOR 2011 AMENDMENTS**

- 9-801. Operative date.
- 9-802. Savings clause.
- 9-803. Security interest perfected before July 1, 2013.
- 9-804. Security interest unperfected before July 1, 2013.
- 9-805. Effectiveness of action taken before July 1, 2013.
- 9-806. When initial financing statement suffices to continue effectiveness of financing statement.
- 9-807. Amendment of pre-operative-date financing statement.
- 9-808. Person entitled to file initial financing statement or continuation statement.
- 9-809. Priority.

## Part 1

## GENERAL PROVISIONS

## Subpart 1

## SHORT TITLE, DEFINITIONS, AND GENERAL CONCEPTS

**9-102 Definitions and index of definitions.**

(a) In this article:

(1) “Accession” means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2) “Account”, except as used in “account for”, means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(3) “Account debtor” means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(4) “Accounting”, except as used in “accounting for”, means a record:

(A) authenticated by a secured party;

(B) indicating the aggregate unpaid secured obligations as of a date not more than thirty-five days earlier or thirty-five days later than the date of the record; and

(C) identifying the components of the obligations in reasonable detail.

(5) “Agricultural lien” means an interest in farm products:

(A) which secures payment or performance of an obligation for:

(i) goods or services furnished in connection with a debtor’s farming operation; or

(ii) rent on real property leased by a debtor in connection with its farming operation;

(B) which is created by statute in favor of a person that:

(i) in the ordinary course of its business furnished goods or services to a debtor in connection with a debtor’s farming operation; or

(ii) leased real property to a debtor in connection with the debtor's farming operation; and

(C) whose effectiveness does not depend on the person's possession of the personal property.

The term also includes every lien created under sections 52-202, 52-501, 52-701, 52-901, 52-1101, 52-1201, 54-201, and 54-208, Reissue Revised Statutes of Nebraska, and Chapter 52, article 14, Reissue Revised Statutes of Nebraska.

(6) "As-extracted collateral" means:

(A) oil, gas, or other minerals that are subject to a security interest that:

(i) is created by a debtor having an interest in the minerals before extraction; and

(ii) attaches to the minerals as extracted; or

(B) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) "Authenticate" means:

(A) to sign; or

(B) with present intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol, or process.

(8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(11) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this subdivision, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include (i) charters or other contracts involving the use or hire of a vessel or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(12) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

(A) proceeds to which a security interest attaches;

(B) accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

(C) goods that are the subject of a consignment.

(13) “Commercial tort claim” means a claim arising in tort with respect to which:

(A) the claimant is an organization; or

(B) the claimant is an individual and the claim:

(i) arose in the course of the claimant’s business or profession; and

(ii) does not include damages arising out of personal injury to or the death of an individual.

(14) “Commodity account” means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(15) “Commodity contract” means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

(A) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(B) traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(16) “Commodity customer” means a person for which a commodity intermediary carries a commodity contract on its books.

(17) “Commodity intermediary” means a person that:

(A) is registered as a futures commission merchant under federal commodities law; or

(B) in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(18) “Communicate” means:

(A) to send a written or other tangible record;

(B) to transmit a record by any means agreed upon by the persons sending and receiving the record; or

(C) in the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(19) “Consignee” means a merchant to which goods are delivered in a consignment.

(20) “Consignment” means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(A) the merchant:

(i) deals in goods of that kind under a name other than the name of the person making delivery;

(ii) is not an auctioneer; and

(iii) is not generally known by its creditors to be substantially engaged in selling the goods of others;

(B) with respect to each delivery, the aggregate value of the goods is one thousand dollars or more at the time of delivery;

(C) the goods are not consumer goods immediately before delivery; and

(D) the transaction does not create a security interest that secures an obligation.

(21) "Consignor" means a person that delivers goods to a consignee in a consignment.

(22) "Consumer debtor" means a debtor in a consumer transaction.

(23) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

(24) "Consumer-goods transaction" means a consumer transaction in which:

(A) an individual incurs an obligation primarily for personal, family, or household purposes; and

(B) a security interest in consumer goods secures the obligation.

(25) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(26) "Consumer transaction" means a transaction in which (i) an individual incurs an obligation primarily for personal, family, or household purposes, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.

(27) "Continuation statement" means an amendment of a financing statement which:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(28) "Debtor" means:

(A) a person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(B) a seller of accounts, chattel paper, payment intangibles, or promissory notes; or

(C) a consignee.

(29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(30) "Document" means a document of title or a receipt of the type described in section 7-201(b).

(31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(33) "Equipment" means goods other than inventory, farm products, or consumer goods.

(34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

(A) crops grown, growing, or to be grown, including:

(i) crops produced on trees, vines, and bushes; and

(ii) aquatic goods produced in aquacultural operations;

(B) livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(C) supplies used or produced in a farming operation; or

(D) products of crops or livestock in their unmanufactured states.

(35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(36) "File number" means the number assigned to an initial financing statement pursuant to section 9-519(a).

(37) "Filing office" means an office designated in section 9-501 as the place to file a financing statement.

(38) "Filing-office rule" means a rule adopted pursuant to section 9-526.

(39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying section 9-502(a) and (b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

(42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(43) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(44) "Goods" means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(46) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided or to be provided.

(47) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment including, but not limited to, a writing that would otherwise qualify as a certificate of deposit (defined in section 3-104(j)) but for the fact that the writing contains a limitation on transfer. The term does not include (i) investment property, (ii) letters of credit, or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(48) "Inventory" means goods, other than farm products, which:

(A) are leased by a person as lessor;

(B) are held by a person for sale or lease or to be furnished under a contract of service;

(C) are furnished by a person under a contract of service; or

(D) consist of raw materials, work in process, or materials used or consumed in a business.

(49) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(50) "Jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is formed or organized.

(51) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(52) "Lien creditor" means:

(A) a creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(B) an assignee for benefit of creditors from the time of assignment;

(C) a trustee in bankruptcy from the date of the filing of the petition; or

(D) a receiver in equity from the time of appointment.

(53) "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 chassis 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 therein. The term includes any structure that meets all of the requirements of this subdivision except 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 Title 42 of the United States Code.

(54) "Manufactured-home transaction" means a secured transaction:

(A) that creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(B) in which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(55) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.

(56) "New debtor" means a person that becomes bound as debtor under section 9-203(d) by a security agreement previously entered into by another person.

(57) "New value" means (i) money, (ii) money's worth in property, services, or new credit, or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(58) "Noncash proceeds" means proceeds other than cash proceeds.

(59) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(60) "Original debtor", except as used in section 9-310(c), means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under section 9-203(d).

(61) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(62) "Person related to", with respect to an individual, means:

(A) the spouse of the individual;

(B) a brother, brother-in-law, sister, or sister-in-law of the individual;

(C) an ancestor or lineal descendant of the individual or the individual's spouse; or

(D) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(63) "Person related to", with respect to an organization, means:

(A) a person directly or indirectly controlling, controlled by, or under common control with the organization;

(B) an officer or director of, or a person performing similar functions with respect to, the organization;

(C) an officer or director of, or a person performing similar functions with respect to, a person described in subdivision (A);



(D) the spouse of an individual described in subdivision (A), (B), or (C); or

(E) an individual who is related by blood or marriage to an individual described in subdivision (A), (B), (C), or (D) and shares the same home with the individual.

(64) "Proceeds", except as used in section 9-609(b), means the following property:

(A) whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

(B) whatever is collected on, or distributed on account of, collateral;

(C) rights arising out of collateral;

(D) to the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

(E) to the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(65) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(66) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to sections 9-620, 9-621, and 9-622.

(67) "Public-finance transaction" means a secured transaction in connection with which:

(A) debt securities are issued;

(B) all or a portion of the securities issued have an initial stated maturity of at least twenty years; and

(C) the debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(68) "Public organic record" means a record that is available to the public for inspection and is:

(A) a record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States which amends or restates the initial record;

(B) an organic record of a business trust consisting of the record initially filed with a state and any record filed with the state which amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or

(C) a record consisting of legislation enacted by the legislature of a state or the Congress of the United States which forms or organizes an organization, any record amending the legislation, and any record filed with or issued by the state or United States which amends or restates the name of the organization.

(69) “Pursuant to commitment”, with respect to an advance made or other value given by a secured party, means pursuant to the secured party’s obligation, whether or not a subsequent event of default or other event not within the secured party’s control has relieved or may relieve the secured party from its obligation.

(70) “Record”, except as used in “for record”, “of record”, “record or legal title”, and “record owner”, means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(71) “Registered organization” means an organization formed or organized solely under the law of a single state or the United States by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by the state or the United States. The term includes a business trust that is formed or organized under the law of a single state if a statute of the state governing business trusts requires that the business trust’s organic record be filed with the state.

(72) “Secondary obligor” means an obligor to the extent that:

(A) the obligor’s obligation is secondary; or

(B) the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(73) “Secured party” means:

(A) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) a person that holds an agricultural lien;

(C) a consignor;

(D) a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) a person that holds a security interest arising under section 2-401, 2-505, 2-711(3), 2A-508(5), 4-210, or 5-118.

(74) “Security agreement” means an agreement that creates or provides for a security interest.

(75) “Send”, in connection with a record or notification, means:

(A) to deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(B) to cause the record or notification to be received within the time that it would have been received if properly sent under subdivision (A).

(76) “Software” means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(77) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(78) “Supporting obligation” means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(79) “Tangible chattel paper” means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(80) “Termination statement” means an amendment of a financing statement which:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(81) “Transmitting utility” means a person primarily engaged in the business of:

(A) operating a railroad, subway, street railway, or trolley bus;

(B) transmitting communications electrically, electromagnetically, or by light;

(C) transmitting goods by pipeline or sewer; or

(D) transmitting or producing and transmitting electricity, steam, gas, or water.

(b) “Control” as provided in section 7-106 and the following definitions in other articles apply to this article:

“Applicant”.	Section 5-102.
“Beneficiary”.	Section 5-102.
“Broker”.	Section 8-102.
“Certificated security”.	Section 8-102.
“Check”.	Section 3-104.
“Clearing corporation”.	Section 8-102.
“Contract for sale”.	Section 2-106.
“Customer”.	Section 4-104.
“Entitlement holder”.	Section 8-102.
“Financial asset”.	Section 8-102.
“Holder in due course”.	Section 3-302.
“Issuer” (with respect to a letter of credit or letter-of-credit right).	Section 5-102.
“Issuer” (with respect to a security).	Section 8-201.
“Issuer” (with respect to a document of title).	Section 7-102.
“Lease”.	Section 2A-103.
“Lease agreement”.	Section 2A-103.
“Lease contract”.	Section 2A-103.
“Leasehold interest”.	Section 2A-103.
“Lessee”.	Section 2A-103.
“Lessee in ordinary course of business”.	Section 2A-103.
“Lessor”.	Section 2A-103.
“Lessor’s residual interest”.	Section 2A-103.
“Letter of credit”.	Section 5-102.
“Merchant”.	Section 2-104.
“Negotiable instrument”.	Section 3-104.
“Nominated person”.	Section 5-102.

“Note”.	Section 3-104.
“Proceeds of a letter of credit”.	Section 5-114.
“Prove”.	Section 3-103.
“Sale”.	Section 2-106.
“Securities account”.	Section 8-501.
“Securities intermediary”.	Section 8-102.
“Security”.	Section 8-102.
“Security certificate”.	Section 8-102.
“Security entitlement”.	Section 8-102.
“Uncertificated security”.	Section 8-102.

(c) Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

**Source:** Laws 1999, LB 550, § 75; Laws 2000, LB 929, § 25; Laws 2001, LB 54, § 28; Laws 2005, LB 570, § 101; Laws 2011, LB90, § 2.  
Operative date July 1, 2013.

### 9-105 Control of electronic chattel paper.

(a) A secured party has control of electronic chattel paper if a system employed for evidencing the transfer of interests in the chattel paper reliably establishes the secured party as the person to which the chattel paper was assigned.

(b) A system satisfies subsection (a) if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

(1) a single authoritative copy of the record or records exists which is unique, identifiable, and, except as otherwise provided in subdivisions (4), (5), and (6), unalterable;

(2) the authoritative copy identifies the secured party as the assignee of the record or records;

(3) the authoritative copy is communicated to and maintained by the secured party or its designated custodian;

(4) copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the secured party;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

**Source:** Laws 1999, LB 550, § 78; Laws 2011, LB90, § 3.  
Operative date July 1, 2013.

#### Part 3

### PERFECTION AND PRIORITY

#### Subpart 1

### LAW GOVERNING PERFECTION AND PRIORITY

**9-304 Law governing perfection and priority of security interests in deposit accounts.**

(a) The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank.

(b) The following rules determine a bank's jurisdiction for purposes of this part:

(1) If an agreement between the bank and its customer governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this part, this article, or the Uniform Commercial Code, that jurisdiction is the bank's jurisdiction.

(2) If subdivision (1) does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(3) If neither subdivision (1) nor subdivision (2) applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(4) If none of the preceding subdivisions applies, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

(5) If none of the preceding subdivisions applies, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

**Source:** Laws 1999, LB 550, § 97; Laws 2011, LB90, § 4.  
Operative date July 1, 2013.

### **9-307 Location of debtor.**

(a) In this section, "place of business" means a place where a debtor conducts its affairs.

(b) Except as otherwise provided in this section, the following rules determine a debtor's location:

(1) A debtor who is an individual is located at the individual's principal residence.

(2) A debtor that is an organization and has only one place of business is located at its place of business.

(3) A debtor that is an organization and has more than one place of business is located at its chief executive office.

(c) Subsection (b) applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (b) does not apply, the debtor is located in the District of Columbia.

(d) A person that ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (b) and (c).

(e) A registered organization that is organized under the law of a state is located in that state.

(f) Except as otherwise provided in subsection (i), a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(1) in the state that the law of the United States designates, if the law designates a state of location;

(2) in the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location, including by designating its main office, home office, or other comparable office; or

(3) in the District of Columbia, if neither subdivision (1) nor subdivision (2) applies.

(g) A registered organization continues to be located in the jurisdiction specified by subsection (e) or (f) notwithstanding:

(1) the suspension, revocation, forfeiture, or lapse of the registered organization's status as such in its jurisdiction of organization; or

(2) the dissolution, winding up, or cancellation of the existence of the registered organization.

(h) The United States is located in the District of Columbia.

(i) A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only one state.

(j) A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

(k) This section applies only for purposes of this part.

**Source:** Laws 1999, LB 550, § 100; Laws 2011, LB90, § 5.  
Operative date July 1, 2013.

#### Subpart 2

### PERFECTION

#### **9-309 Security interest perfected upon attachment.**

The following security interests are perfected when they attach:

(1) a purchase-money security interest in consumer goods, except as otherwise provided in section 9-311(b) with respect to consumer goods that are subject to a statute, regulation, or treaty described in section 9-311(a);

(2) an assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles;

(3) a sale of a payment intangible;

(4) a sale of a promissory note;

(5) a security interest created by the assignment of a health-care-insurance receivable to the provider of the health-care goods or services;

(6) a security interest arising under section 2-401, 2-505, 2-711(3), or 2A-508(5), until the debtor obtains possession of the collateral;

(7) a security interest of a collecting bank arising under section 4-210;

(8) a security interest of an issuer or nominated person arising under section 5-118;

(9) a security interest arising in the delivery of a financial asset under section 9-206(c);

(10) a security interest in investment property created by a broker or securities intermediary;

(11) a security interest in a commodity contract or a commodity account created by a commodity intermediary;

(12) an assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder;

(13) a security interest created by an assignment of a beneficial interest in a decedent's estate; and

(14) a sale by an individual of an account that is a right to payment of winnings in a lottery or other game of chance.

**Source:** Laws 1999, LB 550, § 102; Laws 2011, LB90, § 6.  
Operative date July 1, 2013.

**9-311 Perfection of security interests in property subject to certain statutes, regulations, and treaties.**

(a) Except as otherwise provided in subsection (d), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) a statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt section 9-310(a);

(2) the following statutes of this state: (i) sections 60-164 and 60-165, Reissue Revised Statutes of Nebraska, but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of part 5 apply to a security interest in that collateral created by him or her as debtor; and (ii) section 37-1282, Reissue Revised Statutes of Nebraska, but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of part 5 apply to a security interest in that collateral created by him or her as debtor; or

(3) a statute of another jurisdiction which provides for a security interest to be indicated on a certificate of title as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(b) Compliance with the requirements of a statute, regulation, or treaty described in subsection (a) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this article. Except as otherwise provided in subsection (d) and sections 9-313 and 9-316(d) and (e) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (a) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) Except as otherwise provided in subsection (d) and section 9-316(d) and (e), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (a) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this article.

(d) During any period in which collateral subject to a statute specified in subdivision (a)(2) is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

**Source:** Laws 1999, LB 550, § 104; Laws 2000, LB 929, § 28; Laws 2005, LB 276, § 114; Laws 2011, LB90, § 7.  
Operative date July 1, 2013.

**9-316 Effect of change in governing law.**

(a) A security interest perfected pursuant to the law of the jurisdiction designated in section 9-301(1) or 9-305(c) remains perfected until the earliest of:

- (1) the time perfection would have ceased under the law of that jurisdiction;
- (2) the expiration of four months after a change of the debtor's location to another jurisdiction; or
- (3) the expiration of one year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(b) If a security interest described in subsection (a) becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(c) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

- (1) the collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;
- (2) thereafter the collateral is brought into another jurisdiction; and
- (3) upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(d) Except as otherwise provided in subsection (e), a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(e) A security interest described in subsection (d) becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under section 9-311(b) or 9-313 are not satisfied before the earlier of:



(1) the time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this state; or

(2) the expiration of four months after the goods had become so covered.

(f) A security interest in deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(1) the time the security interest would have become unperfected under the law of that jurisdiction; or

(2) the expiration of four months after a change of the applicable jurisdiction to another jurisdiction.

(g) If a security interest described in subsection (f) becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(h) The following rules apply to collateral to which a security interest attaches within four months after the debtor changes its location to another jurisdiction:

(1) A financing statement filed before the change pursuant to the law of the jurisdiction designated in section 9-301(1) or 9-305(c) is effective to perfect a security interest in the collateral if the financing statement would have been effective to perfect a security interest in the collateral had the debtor not changed its location.

(2) If a security interest perfected by a financing statement that is effective under subdivision (1) becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in section 9-301(1) or 9-305(c) or the expiration of the four-month period, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(i) If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated in section 9-301(1) or 9-305(c) and the new debtor is located in another jurisdiction, the following rules apply:

(1) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four months after, the new debtor becomes bound under section 9-203(d), if the financing statement would have been effective to perfect a security interest in the collateral had the collateral been acquired by the original debtor.

(2) A security interest perfected by the financing statement and which becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in section 9-301(1) or 9-305(c) or the expiration of

the four-month period remains perfected thereafter. A security interest that is perfected by the financing statement but which does not become perfected under the law of the other jurisdiction before the earlier time or event becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

**Source:** Laws 1999, LB 550, § 109; Laws 2011, LB90, § 8.  
Operative date July 1, 2013.

Subpart 3

PRIORITY

**9-317 Interests that take priority over or take free of security interest or agricultural lien.**

- (a) A security interest or agricultural lien is subordinate to the rights of:
- (1) a person entitled to priority under section 9-322; and
  - (2) except as otherwise provided in subsection (e), a person that becomes a lien creditor before the earlier of the time:
    - (A) the security interest or agricultural lien is perfected; or
    - (B) one of the conditions specified in section 9-203(b)(3) is met and a financing statement covering the collateral is filed.
- (b) Except as otherwise provided in subsection (e), a buyer, other than a secured party, of tangible chattel paper, tangible documents, goods, instruments, or a certificated security takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.
- (c) Except as otherwise provided in subsection (e), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.
- (d) A licensee of a general intangible or a buyer, other than a secured party, of collateral other than tangible chattel paper, tangible documents, goods, instruments, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.
- (e) Except as otherwise provided in sections 9-320 and 9-321, if a person files a financing statement with respect to a purchase-money security interest before or within thirty days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

**Source:** Laws 1999, LB 550, § 110; Laws 2000, LB 929, § 29; Laws 2005, LB 82, § 8; Laws 2005, LB 570, § 110; Laws 2011, LB90, § 9.  
Operative date July 1, 2013.

**9-326 Priority of security interests created by new debtor.**

- (a) Subject to subsection (b), a security interest that is created by a new debtor in collateral in which the new debtor has or acquires rights and is perfected solely by a filed financing statement that would be ineffective to

perfect the security interest but for the application of section 9-316(i)(1) or 9-508 is subordinate to a security interest in the same collateral which is perfected other than by such a filed financing statement.

(b) The other provisions of this part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements described in subsection (a). However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

**Source:** Laws 1999, LB 550, § 119; Laws 2011, LB90, § 10.  
Operative date July 1, 2013.

Part 4

RIGHTS OF THIRD PARTIES

**9-406 Discharge of account debtor; notification of assignment; identification and proof of assignment; restrictions on assignment of accounts, chattel paper, payment intangibles, and promissory notes ineffective.**

(a) Subject to subsections (b) through (i), an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) Subject to subsection (h), notification is ineffective under subsection (a):

(1) if it does not reasonably identify the rights assigned;

(2) to the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

(3) at the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

(A) only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;

(B) a portion has been assigned to another assignee; or

(C) the account debtor knows that the assignment to that assignee is limited.

(c) Subject to subsection (h), if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (a).

(d) Except as otherwise provided in subsection (e) and sections 2A-303 and 9-407, and subject to subsection (h), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(1) prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(e) Subsection (d) does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under section 9-610 or an acceptance of collateral under section 9-620.

(f) Except as otherwise provided in sections 2A-303 and 9-407, and subject to subsections (h) and (i), a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(1) prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or

(2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(g) Subject to subsection (h), an account debtor may not waive or vary its option under subdivision (b)(3).

(h) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(i) This section does not apply to an assignment of a health-care-insurance receivable.

(j) This section prevails over any inconsistent provisions of the law of this state.

**Source:** Laws 1999, LB 550, § 141; Laws 2000, LB 929, § 34; Laws 2011, LB90, § 11.

Operative date July 1, 2013.

**9-408 Restrictions on assignment of promissory notes, health-care-insurance receivables, and certain general intangibles ineffective.**

(a) Except as otherwise provided in subsection (b), a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(1) would impair the creation, attachment, or perfection of a security interest;  
or

(2) provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(b) Subsection (a) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under section 9-610 or an acceptance of collateral under section 9-620.

(c) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

(1) would impair the creation, attachment, or perfection of a security interest;  
or

(2) provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(d) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (c) would be effective under law other than this article but is ineffective under subsection (a) or (c), the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(1) is not enforceable against the person obligated on the promissory note or the account debtor;

(2) does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(3) does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(4) does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

(5) does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(6) does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(e) This section prevails over any inconsistent provisions of the law of this state.

**Source:** Laws 1999, LB 550, § 143; Laws 2000, LB 929, § 36; Laws 2011, LB90, § 12.

Operative date July 1, 2013.

Part 5

FILING

Subpart 1

FILING OFFICE; CONTENTS AND EFFECTIVENESS  
OF FINANCING STATEMENT

**9-502 Contents of financing statement; record of mortgage as financing statement; time of filing financing statement.**

(a) Subject to subsection (b), a financing statement is sufficient only if it:

- (1) provides the name of the debtor;
- (2) provides the name of the secured party or a representative of the secured party; and
- (3) indicates the collateral covered by the financing statement.

(b) Except as otherwise provided in section 9-501(b), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (a) and also:

- (1) indicate that it covers this type of collateral;
- (2) indicate that it is to be filed for record in the real property records;
- (3) provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
- (4) if the debtor does not have an interest of record in the real property, provide the name of a record owner.

(c) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

- (1) the record indicates the goods or accounts that it covers;
- (2) the goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
- (3) the record satisfies the requirements for a financing statement in this section, but:
  - (A) the record need not indicate that it is to be filed in the real property records; and
  - (B) the record sufficiently provides the name of a debtor who is an individual if it provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom section 9-503(a)(4) applies; and

(4) the record is duly recorded.

(d) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

**Source:** Laws 1999, LB 550, § 146; Laws 2011, LB90, § 13.

Operative date July 1, 2013.

**9-503 Name of debtor and secured party.**

(a) A financing statement sufficiently provides the name of the debtor:

(1) except as otherwise provided in subdivision (3), if the debtor is a registered organization or the collateral is held in a trust that is a registered organization, only if the financing statement provides the name that is stated to be the registered organization's name on the public organic record most recently filed with or issued or enacted by the registered organization's jurisdiction of organization which purports to state, amend, or restate the registered organization's name;

(2) subject to subsection (f), if the collateral is being administered by the personal representative of a decedent, only if the financing statement provides, as the name of the debtor, the name of the decedent and, in a separate part of the financing statement, indicates that the collateral is being administered by a personal representative;

(3) if the collateral is held in a trust that is not a registered organization, only if the financing statement:

(A) provides, as the name of the debtor:

(i) if the organic record of the trust specifies a name for the trust, the name specified; or

(ii) if the organic record of the trust does not specify a name for the trust, the name of the settlor or testator; and

(B) in a separate part of the financing statement:

(i) if the name is provided in accordance with subdivision (A)(i), indicates that the collateral is held in a trust; or

(ii) if the name is provided in accordance with subdivision (A)(ii), provides additional information sufficient to distinguish the trust from other trusts having one or more of the same settlors or the same testator and indicates that the collateral is held in a trust, unless the additional information so indicates;

(4) subject to subsection (g), if the debtor is an individual to whom this state has issued a driver's license that has not expired, only if the financing statement provides the name of the individual which is indicated on the driver's license;

(5) if the debtor is an individual to whom subdivision (4) does not apply, only if the financing statement provides the individual name of the debtor or the surname and first personal name of the debtor; and

(6) in other cases:

(A) if the debtor has a name, only if the financing statement provides the organizational name of the debtor; and

(B) if the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor, in a manner that each name provided would be sufficient if the person named were the debtor.

(b) A financing statement that provides the name of the debtor in accordance with subsection (a) is not rendered ineffective by the absence of:

- (1) a trade name or other name of the debtor; or
- (2) unless required under subdivision (a)(6)(B), names of partners, members, associates, or other persons comprising the debtor.

(c) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(d) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(e) A financing statement may provide the name of more than one debtor and the name of more than one secured party.

(f) The name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the "name of the decedent" under subsection (a)(2).

(g) If this state has issued to an individual more than one driver's license of a kind described in subsection (a)(4), the one that was issued most recently is the one to which subsection (a)(4) refers.

(h) In this section, the "name of the settlor or testator" means:

(1) if the settlor is a registered organization, the name that is stated to be the settlor's name on the public organic record most recently filed with or issued or enacted by the settlor's jurisdiction of organization which purports to state, amend, or restate the settlor's name; or

(2) in other cases, the name of the settlor or testator indicated in the trust's organic record.

**Source:** Laws 1999, LB 550, § 147; Laws 2011, LB90, § 14.

Operative date July 1, 2013.

#### **9-506 Effect of errors or omissions.**

(a) A financing statement substantially satisfying the requirements of this part is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(b) Except as otherwise provided in subsection (c), a financing statement that fails sufficiently to provide the name of the debtor in accordance with section 9-503(a) is seriously misleading.

(c) If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails sufficiently to provide the name of the debtor in accordance with section 9-503(a), the name provided does not make the financing statement seriously misleading.

(d) For purposes of section 9-508(b), the "debtor's correct name" in subsection (c) means the correct name of the new debtor.

**Source:** Laws 1999, LB 550, § 150; Laws 2008, LB308A, § 1; Laws 2008, LB851, § 28; Laws 2010, LB751, § 1; Laws 2011, LB90, § 15.

Operative date July 1, 2013.

#### **9-507 Effect of certain events on effectiveness of financing statement.**



(a) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(b) Except as otherwise provided in subsection (c) and section 9-508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under section 9-506.

(c) If the name that a filed financing statement provides for a debtor becomes insufficient as the name of the debtor under section 9-503(a) so that the financing statement becomes seriously misleading under section 9-506:

(1) the financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four months after, the filed financing statement becomes seriously misleading; and

(2) the financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the filed financing statement becomes seriously misleading, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four months after the financing statement became seriously misleading.

**Source:** Laws 1999, LB 550, § 151; Laws 2011, LB90, § 16.  
Operative date July 1, 2013.

**9-515 Duration and effectiveness of financing statement; effect of lapsed financing statement.**

(a) Except as otherwise provided in subsections (b), (e), (f), and (g), a filed financing statement is effective for a period of five years after the date of filing.

(b) Except as otherwise provided in subsections (e), (f), and (g), an initial financing statement filed in connection with a public-finance transaction or manufactured-home transaction is effective for a period of thirty years after the date of filing if it indicates that it is filed in connection with a public-finance transaction or manufactured-home transaction.

(c) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection (d). Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(d) A continuation statement may be filed only within six months before the expiration of the five-year period specified in subsection (a) or the thirty-year period specified in subsection (b), whichever is applicable.

(e) Except as otherwise provided in section 9-510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five-year period, the financing statement lapses in the same manner as provided in subsection (c), unless, before the lapse, another

continuation statement is filed pursuant to subsection (d). Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(f) If a debtor is a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed.

(g) A record of a mortgage that is effective as a financing statement filed as a fixture filing under section 9-502(c) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

**Source:** Laws 1999, LB 550, § 159; Laws 2011, LB90, § 17.  
Operative date July 1, 2013.

**9-516 What constitutes filing; effectiveness of filing.**

(a) Except as otherwise provided in subsection (b), communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(b) Filing does not occur with respect to a record that a filing office refuses to accept because:

(1) the record is not communicated by a method or medium of communication authorized by the filing office;

(2) an amount equal to or greater than the applicable filing fee is not tendered;

(3) the filing office is unable to index the record because:

(A) in the case of an initial financing statement, the record does not provide a name for the debtor;

(B) in the case of an amendment or information statement, the record:

(i) does not identify the initial financing statement as required by section 9-512 or 9-518, as applicable; or

(ii) identifies an initial financing statement whose effectiveness has lapsed under section 9-515;

(C) in the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's surname; or

(D) in the case of a record filed or recorded in the filing office described in section 9-501(a)(1), the record does not provide a sufficient description of the real property to which it relates;

(4) in the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(5) in the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

(A) provide a mailing address for the debtor; or

(B) indicate whether the name provided as the name of the debtor is the name of an individual or an organization;

(6) in the case of an assignment reflected in an initial financing statement under section 9-514(a) or an amendment filed under section 9-514(b), the record does not provide a name and mailing address for the assignee;

(7) in the case of a continuation statement, the record is not filed within the six-month period prescribed by section 9-515(d); or

(8) in the case of a financing statement or an amendment to a financing statement, the same person or entity is listed as both debtor and secured party.

(c) For purposes of subsection (b):

(1) a record does not provide information if the filing office is unable to read or decipher the information; and

(2) a record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by section 9-512, 9-514, or 9-518, is an initial financing statement.

(d) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (b), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

**Source:** Laws 1999, LB 550, § 160; Laws 2003, LB 494, § 1; Laws 2011, LB90, § 18.

Operative date July 1, 2013.

**9-518 Claim concerning inaccurate or wrongfully filed record.**

(a) A person may file in the filing office an information statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(b) An information statement under subsection (a) must:

(1) identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;

(2) indicate that it is an information statement; and

(3) provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(c) A person may file in the filing office an information statement with respect to a record filed there if the person is a secured party of record with respect to the financing statement to which the record relates and believes that the person that filed the record was not entitled to do so under section 9-509(d).

(d) An information statement under subsection (c) must:

(1) identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;

(2) indicate that it is an information statement; and

(3) provide the basis for the person's belief that the person that filed the record was not entitled to do so under section 9-509(d).

(e) The filing of an information statement does not affect the effectiveness of an initial financing statement or other filed record.

**Source:** Laws 1999, LB 550, § 162; Laws 2011, LB90, § 19.  
Operative date July 1, 2013.

Subpart 2

DUTIES AND OPERATION OF FILING OFFICE

**9-521 Uniform form of written financing statement and amendment.**

(a) A filing office that accepts written records may not refuse to accept a written initial financing statement in the following form and format except for a reason set forth in section 9-516(b):

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)

\_\_\_\_\_

B. E-MAIL CONTACT AT FILER (optional)

\_\_\_\_\_

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

\_\_\_\_\_

THE ABOVE SPACE IS FOR

FILING OFFICE USE ONLY

1. DEBTOR'S NAME - provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any word in the Debtor's name)

1a. ORGANIZATION'S NAME

\_\_\_\_\_

OR

1b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S) THAT ARE PART OF THE NAME OF THIS DEBTOR

SUFFIX

1c. MAILING ADDRESS

\_\_\_\_\_

CITY

STATE

POSTAL CODE

COUNTRY

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. DEBTOR'S NAME - provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any word in the Debtor's name)

2a. ORGANIZATION'S NAME

\_\_\_\_\_

OR

2b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S) THAT ARE PART OF THE NAME OF THIS DEBTOR

SUFFIX

2c. MAILING ADDRESS

\_\_\_\_\_

**SECURED TRANSACTIONS**

**§ 9-521**

CITY STATE POSTAL CODE COUNTRY

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY) - provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME

OR 3b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

3c. MAILING ADDRESS

CITY STATE POSTAL CODE COUNTRY

4. COLLATERAL: This financing statement covers the following collateral:

5. Check only if applicable and check only one box:

Collateral is \_\_\_ held in a Trust (see Instructions) \_\_\_ being administered by a Decedent's Personal Representative.

6a. Check only if applicable and check only one box:

- \_\_\_ Public-Finance Transaction
- \_\_\_ Manufactured-Home Transaction
- \_\_\_ A Debtor is a Transmitting Utility

6b. Check only if applicable and check only one box:

- \_\_\_ Agricultural Lien \_\_\_ Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable): \_\_\_ Lessee/Lessor \_\_\_ Consignee/Consignor \_\_\_ Seller/Buyer \_\_\_ Bailee/Bailor \_\_\_ Licensee/Li-censor

8. OPTIONAL FILER REFERENCE DATA

[UCC FINANCING STATEMENT (Form UCC1)]  
UCC FINANCING STATEMENT ADDENDUM  
FOLLOW INSTRUCTIONS

9. NAME OF FIRST DEBTOR (same as item 1a or 1b on Financing State-ment)

9a. ORGANIZATION'S NAME

OR 9b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

THE ABOVE SPACE IS FOR  
FILING OFFICE USE ONLY

10. ADDITIONAL DEBTOR'S NAME - provide only one Debtor name (10a or 10b) (use exact, full name; do not omit, modify, or abbreviate any word in the Debtor's name)

10a. ORGANIZATION'S NAME

\_\_\_\_\_

OR

10b. INDIVIDUAL'S SURNAME

\_\_\_\_\_

FIRST PERSONAL NAME

\_\_\_\_\_

ADDITIONAL NAME(S)/INITIAL(S) THAT ARE  
PART OF THE NAME OF THIS DEBTOR

\_\_\_\_\_

SUFFIX

\_\_\_\_\_

10c. MAILING ADDRESS

\_\_\_\_\_

CITY

\_\_\_\_\_

STATE

\_\_\_\_\_

POSTAL CODE

\_\_\_\_\_

COUNTRY

\_\_\_\_\_

11. \_\_\_\_ ADDITIONAL SECURED PARTY'S NAME or \_\_\_\_ ASSIGNOR  
SECURED PARTY'S NAME - provide only one name (11a or 11b)

11a. ORGANIZATION'S NAME

\_\_\_\_\_

OR

11b. INDIVIDUAL'S SURNAME

\_\_\_\_\_

FIRST PERSONAL NAME

\_\_\_\_\_

ADDITIONAL NAME(S)/INITIAL(S)

\_\_\_\_\_

SUFFIX

\_\_\_\_\_

11c. MAILING ADDRESS

\_\_\_\_\_

CITY

\_\_\_\_\_

STATE

\_\_\_\_\_

POSTAL CODE

\_\_\_\_\_

COUNTRY

\_\_\_\_\_

12. ADDITIONAL SPACE FOR ITEM 4 (Collateral)

\_\_\_\_\_

13. \_\_\_\_ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS (if applicable)

14. This FINANCING STATEMENT:

\_\_\_\_ covers timber to be cut

\_\_\_\_ covers as-extracted collateral

\_\_\_\_ is filed as a fixture filing

15. Name and address of a RECORD OWNER of real estate described in item 16 (if Debtor does not have a record interest):

\_\_\_\_\_

16. Description of real estate:

\_\_\_\_\_

17. MISCELLANEOUS:

\_\_\_\_\_

[UCC FINANCING STATEMENT ADDENDUM (Form UCC1Ad)]

(b) A filing office that accepts written records may not refuse to accept a written record in the following form and format except for a reason set forth in section 9-516(b):

UCC FINANCING STATEMENT AMENDMENT  
FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)

\_\_\_\_\_  
B. E-MAIL CONTACT AT FILER (optional)

\_\_\_\_\_  
C. SEND ACKNOWLEDGMENT TO: (Name and Address)

\_\_\_\_\_  
THE ABOVE SPACE IS FOR  
FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE NUMBER

\_\_\_\_\_  
1b. \_\_\_ This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.

Filer: attach Amendment Addendum (Form UCC3Ad) and provide Debtor's name in item 13.

2. \_\_\_ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement

3. \_\_\_ ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 9. For partial assignment, complete items 7 and 9 and also indicate affected collateral in item 8

4. \_\_\_ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law

5. \_\_\_ PARTY INFORMATION CHANGE:

Check one of these two boxes:

This Change affects \_\_\_ Debtor or \_\_\_ Secured Party of record.

AND

Check one of these three boxes to:

\_\_\_ CHANGE name and/or address: Complete item 6a or 6b, and item 7a or 7b and item 7c.

\_\_\_ ADD name: Complete item 7a or 7b, and item 7c.

\_\_\_ DELETE name: Give record name to be deleted in item 6a or 6b.

6. CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one name (6a or 6b) (use exact, full name; do not omit, modify, or abbreviate any word in the Debtor's name)

6a. ORGANIZATION'S NAME

\_\_\_\_\_  
OR

6b. INDIVIDUAL'S SURNAME

\_\_\_\_\_  
FIRST PERSONAL NAME

\_\_\_\_\_  
ADDITIONAL NAME(S)/INITIAL(S)

\_\_\_\_\_  
SUFFIX

7. CHANGED OR ADDED INFORMATION: Complete for Assignment or Party Information Change - provide only one name (7a or 7b) (use exact, full name; do not omit, modify, or abbreviate any word in the Debtor's name)

7a. ORGANIZATION'S NAME  
\_\_\_\_\_

OR

7b. INDIVIDUAL'S SURNAME  
\_\_\_\_\_

FIRST PERSONAL NAME  
\_\_\_\_\_

ADDITIONAL NAME(S)/INITIAL(S) THAT ARE PART OF THE NAME OF THIS DEBTOR  
\_\_\_\_\_

SUFFIX  
\_\_\_\_\_

7c. MAILING ADDRESS  
\_\_\_\_\_

CITY  
\_\_\_\_\_

STATE  
\_\_\_\_\_

POSTAL CODE  
\_\_\_\_\_

COUNTRY  
\_\_\_\_\_

8. \_\_\_\_ COLLATERAL CHANGE:

Also check one of these four boxes:

\_\_\_\_ ADD collateral \_\_\_\_ DELETE collateral \_\_\_\_ RESTATE covered collateral

\_\_\_\_ ASSIGN collateral

Indicate collateral:

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT - provide only one name (9a or 9b) (name of Assignor, if this is an Assignment)

If this is an Amendment authorized by a DEBTOR, check here \_\_\_\_ and provide name of authorizing Debtor

9a. ORGANIZATION'S NAME  
\_\_\_\_\_

OR

9b. INDIVIDUAL'S SURNAME  
\_\_\_\_\_

FIRST PERSONAL NAME  
\_\_\_\_\_

ADDITIONAL NAME(S)/INITIAL(S)  
\_\_\_\_\_

SUFFIX  
\_\_\_\_\_

10. OPTIONAL FILER REFERENCE DATA  
\_\_\_\_\_

[UCC FINANCING STATEMENT AMENDMENT (Form UCC3)]  
UCC FINANCING STATEMENT AMENDMENT ADDENDUM  
FOLLOW INSTRUCTIONS

11. INITIAL FINANCING STATEMENT FILE NUMBER (same as item 1a on Amendment form)  
\_\_\_\_\_

12. NAME OF PARTY AUTHORIZING THIS AMENDMENT (same as item 9 on Amendment form)

12a. ORGANIZATION'S NAME  
\_\_\_\_\_

OR

12b. INDIVIDUAL'S SURNAME  
\_\_\_\_\_

FIRST PERSONAL NAME  
\_\_\_\_\_

ADDITIONAL NAME(S)/INITIAL(S)  
\_\_\_\_\_

SUFFIX  
\_\_\_\_\_



THE ABOVE SPACE IS FOR  
FILING OFFICE USE ONLY

13. Name of DEBTOR on related financing statement (Name of a current Debtor of record required for indexing purposes only in some filing offices - see Instruction for item 13 - insert only one Debtor name (13a or 13b) (use exact, full name; do not omit, modify, or abbreviate any word in the Debtor's name)

13a. ORGANIZATION'S NAME

---

OR

13b. INDIVIDUAL'S SURNAME

---

FIRST PERSONAL NAME

---

ADDITIONAL NAME(S)/INITIAL(S)

---

SUFFIX

---

14. ADDITIONAL SPACE FOR ITEM 8 (Collateral)

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15. This FINANCING STATEMENT AMENDMENT: \_\_\_\_ covers timber to be cut

\_\_\_\_ covers as-extracted collateral \_\_\_\_ is filed as a fixture filing

16. Name and address of a RECORD OWNER of real estate described in item 17 (if Debtor does not have a record interest):

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17. Description of real estate

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18. MISCELLANEOUS:

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[UCC FINANCING STATEMENT AMENDMENT ADDENDUM (Form UCC3Ad)]

**Source:** Laws 2011, LB90, § 20.

Operative date July 1, 2013.

Note: This section was repealed by Laws 2011, LB90, section 33. Laws 2011, LB90, section 20, added a new section 9-521.

**9-531 Uniform Commercial Code Cash Fund; created; use; Secretary of State; duties; fees.**

(a) There is created the Uniform Commercial Code Cash Fund. Except as otherwise specifically provided, all funds received pursuant to this part and sections 52-1312, 52-1313, 52-1316, and 52-1602, Reissue Revised Statutes of Nebraska, shall be placed in the fund and used by the Secretary of State to carry out this part, sections 52-1301 to 52-1322, Reissue Revised Statutes of Nebraska, and sections 52-1601 to 52-1605, Reissue Revised Statutes of Nebraska, except that transfers from the Uniform Commercial Code Cash Fund to the General Fund, the Election Administration Fund, and the Records Management Cash Fund may be made at the direction of the Legislature.

(b)(1) The Secretary of State shall furnish each county clerk with computer terminal hardware, including a printer, compatible with the centralized computer system implemented and maintained pursuant to section 9-529, for inquiries and searches of information in such centralized computer system. The

terminals shall be readily and reasonably available and accessible to members of the public for such inquiries and searches.

(2) The fees charged by county clerks for inquiries and other services regarding information in the centralized computer system shall be the same as set forth for filing offices in this part.

**Source:** Laws 1999, LB 550, § 175; Laws 2001, LB 541, § 10; Laws 2003, LB 4, § 9; Laws 2007, LB124, § 73; Laws 2011, LB378, § 35. Effective date May 18, 2011.

Part 6

DEFAULT

Subpart 1

DEFAULT AND ENFORCEMENT OF SECURITY INTEREST

**9-607 Collection and enforcement by secured party.**

(a) If so agreed, and in any event after default, a secured party:

(1) may notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(2) may take any proceeds to which the secured party is entitled under section 9-315;

(3) may enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(4) if it holds a security interest in a deposit account perfected by control under section 9-104(a)(1), may apply the balance of the deposit account to the obligation secured by the deposit account; and

(5) if it holds a security interest in a deposit account perfected by control under section 9-104(a)(2) or (3), may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(b) If necessary to enable a secured party to exercise under subdivision (a)(3) the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which a record of the mortgage is recorded:

(1) a copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(2) the secured party's sworn affidavit in recordable form stating that:

(A) a default has occurred with respect to the obligation secured by the mortgage; and

(B) the secured party is entitled to enforce the mortgage nonjudicially.

(c) A secured party shall proceed in a commercially reasonable manner if the secured party:

(1) undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(2) is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(d) A secured party may deduct from the collections made pursuant to subsection (c) reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party.

(e) This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

**Source:** Laws 1999, LB 550, § 182; Laws 2011, LB90, § 21.  
Operative date July 1, 2013.

#### Part 8

### TRANSITION PROVISIONS FOR 2011 AMENDMENTS

#### **9-801 Operative date.**

This article as amended by Laws 2011, LB90, becomes operative on July 1, 2013.

**Source:** Laws 2011, LB90, § 22.  
Operative date July 1, 2013.

#### **9-802 Savings clause.**

(a) Except as otherwise provided in this part, this article applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before July 1, 2013.

(b) This article as amended by Laws 2011, LB90, does not affect an action, case, or proceeding commenced before July 1, 2013.

**Source:** Laws 2011, LB90, § 23.  
Operative date July 1, 2013.

#### **9-803 Security interest perfected before July 1, 2013.**

(a) A security interest that is a perfected security interest immediately before July 1, 2013, is a perfected security interest under this article as it existed on July 1, 2013, if, on July 1, 2013, the applicable requirements for attachment and perfection under this article as it existed on July 1, 2013, are satisfied without further action.

(b) Except as otherwise provided in section 9-805, if, immediately before July 1, 2013, a security interest is a perfected security interest, but the applicable requirements for perfection under this article as it existed on July 1, 2013, are not satisfied on July 1, 2013, the security interest remains perfected thereafter only if the applicable requirements for perfection under this article as it existed on July 1, 2013, are satisfied within one year after July 1, 2013.

**Source:** Laws 2011, LB90, § 24.  
Operative date July 1, 2013.

#### **9-804 Security interest unperfected before July 1, 2013.**

A security interest that is an unperfected security interest immediately before July 1, 2013, becomes a perfected security interest:

(1) without further action, on July 1, 2013, if the applicable requirements for perfection under this article as it existed on July 1, 2013, are satisfied before or at that time; or

(2) when the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

**Source:** Laws 2011, LB90, § 25.

Operative date July 1, 2013.

**9-805 Effectiveness of action taken before July 1, 2013.**

(a) The filing of a financing statement before July 1, 2013, is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this article as it existed on July 1, 2013.

(b) This article does not render ineffective an effective financing statement that, before July 1, 2013, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this article as it existed before July 1, 2013. However, except as otherwise provided in subsections (c) and (d) and section 9-806, the financing statement ceases to be effective:

(1) if the financing statement is filed in this state, at the time the financing statement would have ceased to be effective had Laws 2011, LB90, not become law; or

(2) if the financing statement is filed in another jurisdiction, at the earlier of:

(A) the time the financing statement would have ceased to be effective under the law of that jurisdiction; or

(B) June 30, 2018.

(c) The filing of a continuation statement on or after July 1, 2013, does not continue the effectiveness of the financing statement filed before July 1, 2013. However, upon the timely filing of a continuation statement on or after July 1, 2013, and in accordance with the law of the jurisdiction governing perfection as provided in this article as it existed on July 1, 2013, the effectiveness of a financing statement filed in the same office in that jurisdiction before July 1, 2013, continues for the period provided by the law of that jurisdiction.

(d) Subsection (b)(2)(B) applies to a financing statement that, before July 1, 2013, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this article as it existed before July 1, 2013, only to the extent that this article as it existed on July 1, 2013, provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(e) A financing statement that includes a financing statement filed before July 1, 2013, and a continuation statement filed on or after July 1, 2013, is effective only to the extent that it satisfies the requirements of part 5 as it existed on July 1, 2013, for an initial financing statement. A financing statement that indicates that the debtor is a decedent's estate indicates that the collateral is being administered by a personal representative within the meaning of section 9-503(a)(2) as it existed on July 1, 2013. A financing statement that indicates that the debtor is a trust or is a trustee acting with respect to property held in

trust indicates that the collateral is held in a trust within the meaning of section 9-503(a)(3) as it existed on July 1, 2013.

**Source:** Laws 2011, LB90, § 26.  
Operative date July 1, 2013.

**9-806 When initial financing statement suffices to continue effectiveness of financing statement.**

(a) The filing of an initial financing statement in the office specified in section 9-501 continues the effectiveness of a financing statement filed before July 1, 2013, if:

(1) the filing of an initial financing statement in that office would be effective to perfect a security interest under this article as it existed on July 1, 2013;

(2) the pre-operative-date financing statement was filed in an office in another state; and

(3) the initial financing statement satisfies subsection (c).

(b) The filing of an initial financing statement under subsection (a) continues the effectiveness of the pre-operative-date financing statement:

(1) if the initial financing statement is filed before July 1, 2013, for the period provided in section 9-515 as it existed before July 1, 2013, with respect to an initial financing statement; and

(2) if the initial financing statement is filed on or after July 1, 2013, for the period provided in section 9-515 as it existed on July 1, 2013, with respect to an initial financing statement.

(c) To be effective for purposes of subsection (a), an initial financing statement must:

(1) satisfy the requirements of part 5 as it existed on July 1, 2013, for an initial financing statement;

(2) identify the pre-operative-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(3) indicate that the pre-operative-date financing statement remains effective.

**Source:** Laws 2011, LB90, § 27.  
Operative date July 1, 2013.

**9-807 Amendment of pre-operative-date financing statement.**

(a) In this section, “pre-operative-date financing statement” means a financing statement filed before July 1, 2013.

(b) On or after July 1, 2013, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-operative-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in this article as it existed on July 1, 2013. However, the effectiveness of a pre-operative-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) Except as otherwise provided in subsection (d), if the law of this state governs perfection of a security interest, the information in a pre-operative-date financing statement may be amended on or after July 1, 2013, only if:

(1) the pre-operative-date financing statement and an amendment are filed in the office specified in section 9-501;

(2) an amendment is filed in the office specified in section 9-501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies section 9-806(c); or

(3) an initial financing statement that provides the information as amended and satisfies section 9-806(c) is filed in the office specified in section 9-501.

(d) If the law of this state governs perfection of a security interest, the effectiveness of a pre-operative-date financing statement may be continued only under section 9-805(c) and (e) or 9-806.

(e) Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-operative-date financing statement filed in this state may be terminated on or after July 1, 2013, by filing a termination statement in the office in which the pre-operative-date financing statement is filed, unless an initial financing statement that satisfies section 9-806(c) has been filed in the office specified by the law of the jurisdiction governing perfection as provided in this article as it existed on July 1, 2013, as the office in which to file a financing statement.

**Source:** Laws 2011, LB90, § 28.

Operative date July 1, 2013.

**9-808 Person entitled to file initial financing statement or continuation statement.**

A person may file an initial financing statement or a continuation statement under this part if:

(1) the secured party of record authorizes the filing; and

(2) the filing is necessary under this part:

(A) to continue the effectiveness of a financing statement filed before July 1, 2013; or

(B) to perfect or continue the perfection of a security interest.

**Source:** Laws 2011, LB90, § 29.

Operative date July 1, 2013.

**9-809 Priority.**

This article determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before July 1, 2013, this article as it existed before July 1, 2013, determines priority.

**Source:** Laws 2011, LB90, § 30.

Operative date July 1, 2013.

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**APPENDIX**

**CLASSIFICATION OF PENALTIES**

<b>CLASS I FELONY</b>	<b>Death</b>
28-303	Murder in the first degree
<b>CLASS IA FELONY</b>	<b>Life imprisonment</b>
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
<b>CLASS IB FELONY</b>	<b>Maximum–life imprisonment Minimum–twenty years imprisonment</b>
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
*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

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	(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
28-1206	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**

28-202	Criminal conspiracy to commit a Class IC felony
*28-320.01	Sexual assault of a child in the second degree with prior sexual assault conviction
28-320.01	Sexual assault of a child in the third degree with prior sexual assault conviction
28-320.02	Sexual assault of minor or person believed to be a minor lured by electronic communication device, second offense or with previous conviction of sexual assault
*28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of at least 28 grams but less than 140 grams
*28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense heroin or any mixture containing heroin in a quantity of at least 28 grams but less than 140 grams



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*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

**CLASS ID FELONY**

**Maximum—fifty years imprisonment**

**Mandatory minimum—three years imprisonment**

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,

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	national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
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	Assault on an officer in the first degree 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
*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 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 of age or older

**CLASS II FELONY**

**Maximum—fifty years imprisonment**

**Minimum—one year imprisonment**

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	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

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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 first degree 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
28-115	Assault on an officer in the second degree committed against a pregnant woman
28-201	Criminal attempt to commit a Class I, IA, IB, IC, or ID felony
28-202	Criminal conspiracy to commit a Class I or II felony
*28-306	Motor vehicle homicide by person driving under the influence of alcohol or drugs with prior conviction of driving under the influence of alcohol or drugs
28-308	Assault in the first degree
28-313	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	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
*28-416	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 \$1,500 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

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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, second or subsequent offense
28-707	Child abuse committed knowingly and intentionally and resulting in serious bodily injury
28-831	Commercial sexual activity, sexually-explicit performance, or pornography involving a minor by use of force or threat of force or when minor is under 15 years of age
28-930	Assault on an officer in the second degree
28-932	Assault with a deadly or dangerous weapon by a legally confined person committed against a pregnant woman
28-933	Certain acts of assault, terroristic threats, kidnapping, or false imprisonment committed by legally confined person
28-1205	Possession of firearm during commission of a felony
28-1205	Use of deadly weapon other than a firearm to commit a felony
28-1222	Using explosives to commit a felony, second or subsequent offense
28-1223	Using explosives to damage or destroy property resulting in personal injury
28-1224	Using explosives to kill or injure any person resulting in personal injury
30-3432	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 the 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 III FELONY**

**Maximum—twenty years imprisonment, or  
twenty-five thousand dollars fine, or both  
Minimum—one year imprisonment**

8-138	Officer, agent, or employee receiving deposits on behalf of insolvent bank
8-139	Acting or assisting another to act as active executive officer of a bank when not licensed
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
9-814	Altering lottery tickets to defraud under the 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	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	False imprisonment in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin,

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	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 in the second degree 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 in the third degree committed against a pregnant woman
28-115	Assault on an officer using a motor vehicle committed against a pregnant woman
*28-115	Causing serious bodily injury to pregnant woman while driving while intoxicated
28-201	Criminal attempt to commit a Class II felony
28-202	Criminal conspiracy to commit a Class III 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	Strangulation using dangerous instrument, resulting in serious bodily injury, or after previous conviction for strangulation
28-311	Criminal child enticement with previous conviction of certain crimes
*28-311.08	Knowingly distributing or making public a recording of another person in a state of undress without his or her consent or knowledge in a place of solitude or seclusion
28-320	Sexual assault in the second degree
28-322.02	Sexual abuse of an inmate or parolee in the first degree
28-322.04	Sexual abuse of a protected individual 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
28-328	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
28-393	Manslaughter of an unborn child
*28-394	Motor vehicle homicide of an unborn child by person driving under the influence of alcohol or drugs with prior conviction of driving under the influence of alcohol or drugs
28-397	Assault of an unborn child in the first degree
*28-416	Manufacture, distribute, deliver, dispense, or possess certain controlled substances in Schedule I, II, or III of section 28-405
*28-416	Manufacture, distribute, deliver, dispense, or possess controlled substances in Schedule IV or V of section 28-405, 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

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28-503	Arson in the second degree
28-507	Burglary
28-518	Theft when value is over \$1,500
28-602	Forgery in the first degree
28-603	Forgery in the second degree when face value is \$1,000 or more
28-611	Issuing a bad check or other order in an amount of \$1,500 or more
28-611.01	Issuing a no-account check in an amount of \$1,500 or more, first offense
28-611.01	Issuing a no-account check in an amount of \$500 or more, second or subsequent offense
28-620	Unauthorized use of a financial transaction device when total value is \$1,500 or more within a six-month period
28-621	Criminal possession of four or more financial transaction devices
28-622	Unlawful circulation of a financial transaction device in the first degree
28-625	Criminal sale of two or more blank financial transaction devices
28-627	Unlawful manufacture of a financial transaction device
28-631	Committing a fraudulent insurance act when the amount involved is \$1,500 or more
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, 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 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, 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
28-703	Incest
28-813.01	Possession by a person 19 years of age or older of visual depiction of sexually explicit conduct containing a child
28-831	Forced labor or services resulting from inflicting or threatening serious personal injury or restraining or threatening restraint of another
28-831	Commercial sexual activity, sexually explicit performance, or pornography involving a minor without use of force or threat of force when minor is 15 years of age or older
28-912	Escape when detained or under arrest on a felony charge
28-912	Escape using force, threat, deadly weapon, or dangerous instrument
28-912	Escape, public servant concerned in detention permits another to escape
28-915	Perjury and subornation of perjury
28-932	Assault with a deadly or dangerous weapon by a legally confined person
28-932	Assault by legally confined person without a deadly weapon committed against a pregnant woman
28-1102	Promoting gambling in the first degree, third or subsequent offense

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28-1105.01	Gambling debt collection
28-1204.01	Unlawful transfer of a firearm to a juvenile
28-1205	Possession of deadly weapon other than a firearm during commission of a felony
28-1206	Possession of deadly weapon other than a firearm by a prohibited person
28-1207	Possession of a defaced firearm
28-1208	Defacing a firearm
28-1212.03	Possession, receipt, retention, or disposal of a stolen firearm knowing or believing it to be stolen
28-1222	Using explosives to commit a felony, first offense
28-1223	Using explosives to damage or destroy property unless personal injury or death occurs
28-1224	Using explosives to kill or injure any person 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 \$1,000 or more
28-1345	Unauthorized access to a computer which causes damages of \$1,000 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 of age
28-1463.05	Possession of child pornography with intent to distribute by person 19 years of age or older
*29-4011	Failure by felony sex offender to register under the Sex Offender Registration Act, second or subsequent offense
30-2219	Falsifying representation under the 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
32-1522	Unlawful distribution of ballots or other election supplies by election official, printer, or custodian of supplies
38-140	Violation of cease and desist order prohibiting the unauthorized practice of a credentialed profession or unauthorized operation of a credentialed business under the 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 the Uniform Credentialing Act
44-10,108	Fraudulent statement in report or statement for benefits from a fraternal benefit society
54-1,123	Selling livestock without evidence of ownership
54-1,124	Branding another's livestock, defacing marks
54-1,125	Forging or altering livestock ownership document when value is \$1,000 or more
57-1211	Intentionally making false oath to uranium severance tax return or report

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60-169	False statement on affidavit of affixture for mobile home or manufactured home
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road
*60-698	Motor vehicle accident resulting in serious bodily injury or death, violation of duty to stop
*60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, 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 committed with less than .15 gram alcohol concentration
*60-6,197.06	Operating a motor vehicle when operator's license has been revoked for driving under the influence, second or subsequent offense
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 the Wholesale Drug Distributor Licensing Act
71-8929	Veterinary drug distribution in violation of the Veterinary Drug Distribution Licensing Act
75-151	Violation by officer or agent of common carriers in consolidation or increase in stock, issuance of securities
77-5016.01	Falsifying a representation before the Tax Equalization and Review Commission
79-541	School district meeting or election, false oath
83-174.05	Failure to comply with community supervision, second or subsequent offense
83-184	Escape from custody (certain situations)

**CLASS IIIA FELONY                      Maximum—five years imprisonment, or ten thousand dollars fine, or both**  
**Minimum—none**

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	Arson in the third degree, damages of \$100 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 \$300 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,



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	ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
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, second or subsequent offense against same intimate partner, committed against a pregnant woman
28-201	Criminal attempt to commit sexual assault in the second degree, possession or distribution of certain controlled substances, incest, child abuse, or assault by a confined person with a deadly or dangerous weapon
28-202	Criminal conspiracy to commit a Class IIIA felony
28-204	Harboring, concealing, or aiding a felon who committed a Class II felony
28-306	Motor vehicle homicide by person driving in a reckless manner
28-311	Criminal child enticement
28-314	False imprisonment in the first degree
28-320.01	Sexual assault of a child in the third degree, first offense
28-322.05	Unlawful use of Internet by prohibited sex offender, second or subsequent conviction
28-323	Domestic assault in the second degree, first offense
28-386	Knowing and intentional abuse of a vulnerable adult
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 of an electronic payment card scanning device or reencoder, second or subsequent offense
28-707	Child abuse committed knowingly and intentionally and not resulting in serious bodily injury or death
28-904	Resisting arrest, second or subsequent offense
28-904	Resisting arrest using deadly or dangerous weapon
28-931	Assault on an officer in the third degree
28-931.01	Assault on an officer 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
28-1463.05	Possession of child pornography with intent to distribute by person under 19 years of age
*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 the Nebraska Rules of the Road
*60-698	Motor vehicle accident resulting in injury other than serious bodily injury, violation of duty to stop
*60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, third offense committed with .15 gram alcohol concentration

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*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—five years imprisonment, or  
ten thousand dollars fine, or both  
Minimum—none**

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 financial institutions
8-133	Inducing person to make or retain deposit in bank or accepting such inducement
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
*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
*9-352	Second or subsequent violation of Nebraska Pickle Card Lottery Act when not otherwise specified
9-352	Specified violations of Nebraska Pickle Card Lottery Act
*9-434	Second or subsequent violation of Nebraska Lottery and Raffle Act when not otherwise specified
9-434	Specified violations of Nebraska Lottery and Raffle Act
*9-652	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
9-814	Providing false information pursuant to the State Lottery Act
10-509	Funding bonds of counties, fraudulent issue or use
11-101.02	False statement in oath of office
23-135.01	False claim against county when value is \$1,000 or more
23-3113	County purchasing agent or staff member violating County Purchasing Act
25-1630	Tampering with jury list
25-1635	Illegal disclosure of juror names

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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 less than \$100, 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 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
28-115	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, committed against a pregnant woman
28-201	Criminal attempt to commit certain Class III 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
28-310.01	Strangulation generally
28-311.01	Terroristic threats
28-311.04	Stalking (certain situations)
*28-311.08	Knowingly recording, by video, photographic, digital, or other electronic means, another person in a state of undress without his or her consent or knowledge in a place of solitude or seclusion
28-316	Violation of custody with intent to deprive custodian of custody of child
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
28-323	Domestic assault in the third degree by intentionally and knowingly causing bodily injury to his or her intimate partner or by threatening an

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	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
*28-394	Motor vehicle homicide of an unborn child by person driving under the influence of alcohol or drugs with no prior conviction
28-394	Motor vehicle homicide of an unborn child by person driving in a reckless manner
28-3,108	Intentional or reckless performance of or attempt to perform abortion in violation of the Pain-Capable Unborn Child Protection Act
28-412	Unlawful prescription of narcotic drugs for detoxification or maintenance treatment
*28-416	Knowingly or intentionally unlawfully possessing controlled substance other than marijuana or synthetically produced cannabinoids
*28-416	Knowingly or intentionally possessing more than one pound of marijuana
*28-416	Possession of money used or intended to be used to violate provisions relating to controlled substances
28-418	Knowing or intentional violation of Uniform Controlled Substances Act
28-451	Possession of anhydrous ammonia with intent to manufacture methamphetamine
28-452	Possession of ephedrine, pseudoephedrine, or phenylpropanolamine with intent to manufacture methamphetamine
28-457	Permitting a child or vulnerable adult to inhale or have contact with methamphetamine, second or subsequent offense
28-504	Arson in the third degree, damages of \$100 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 \$1,500
28-516	Unauthorized use of a propelled vehicle, third or subsequent offense
28-518	Theft when value is \$500 or more but not more than \$1,500
28-518	Theft when value is more than \$200 but less than \$500, second or subsequent offense
28-518	Theft when value is \$200 or less, third or subsequent offense
28-519	Criminal mischief, pecuniary loss of \$1,500 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 over \$300 but less than \$1,000
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 \$1,000 or more
28-605	Criminal possession of forgery devices
28-611	Issuing a bad check or other order in an amount of \$500 or more but less than \$1,500

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28-611	Issuing a bad check or other order in an amount under \$500, second or subsequent offense
28-611.01	Issuing a no-account check 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 under \$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 \$500 or more but less than \$1,500 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 forgery device
28-628	Laundering of sales forms
28-629	Unlawful acquisition of sales form processing services
28-630	Unlawful factoring of a financial transaction device
28-631	Committing a fraudulent insurance act when the amount involved is \$500 or more but less than \$1,500
28-631	Committing a fraudulent insurance act when the amount involved is \$200 or more but less than \$500, second or subsequent offense
28-631	Committing a fraudulent insurance act with intent to defraud or deceive
28-634	Unlawful use of an electronic payment card scanning device or reencoder, 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, 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 \$200 or more but less than \$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 \$200, 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 \$500 or more but less than \$1,500, 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 \$200 or more but less than \$500, second or subsequent offense

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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 \$200, third or subsequent offense
28-640	Identity fraud, second or subsequent offense
28-706	Criminal nonsupport in violation of a court order
*28-801.01	Solicitation of prostitution, second or subsequent offense
28-802	Pandering
28-813.01	Possession by a minor of visual depiction of sexually explicit conduct containing a child
28-831	Forced labor or services resulting from destroying or holding another's identification or immigration documents
28-831	Recruiting or transporting adults for forced labor or services
28-831	Benefiting from forced labor or services
28-833	Enticement by electronic communication device
*28-905	Operating a motor vehicle to avoid arrest which is a second or subsequent offense, results in death or injury, or involves willful reckless driving
*28-905	Operating a boat to avoid arrest for felony
28-912	Escape (certain situations excepted)
28-912	Knowingly causing or facilitating an escape
28-912.01	Accessory to escape of juvenile from custody of Office of Juvenile Services
28-917	Bribery
28-918	Bribery of a witness
28-918	Witness accepting bribe or benefit
28-919	Tampering with witness, informant, or juror
28-920	Bribery of a juror
28-920	Juror accepting bribe or benefit
28-922	Tampering with physical evidence
28-1005	Dogfighting, cockfighting, bearbaiting, etc., promoter, owner, employee, or spectator
28-1009	Abandonment or cruel neglect of animal resulting in serious injury, illness, or death
28-1009	Harassment of police animal resulting in death of animal
28-1009	Cruel mistreatment of animal involving torture or mutilation
28-1009	Cruel mistreatment of animal not involving torture or mutilation, second or subsequent offense
28-1102	Promoting gambling in the first degree, second offense
28-1202	Carrying a concealed weapon, second or subsequent offense
28-1203	Transporting or possessing a machine gun, short rifle, or short shotgun
*28-1204.04	Unlawful possession of a firearm at a school
28-1215	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

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28-1344	Unauthorized access to a computer which deprives another of property or services or obtains property or services of another with value under \$1,000
28-1345	Unauthorized access to a computer causing damages under \$1,000
28-1351	Unlawful membership recruitment for an organization or association engaged in criminal acts
*28-1469	Operation of aircraft while under the influence of alcohol or drugs, third or subsequent offense
28-1482	Unlawful paramilitary activities
29-908	Failing to appear when on bail for felony offense
29-4011	Failure by felony sex offender to register under the Sex Offender Registration Act, first offense
29-4011	Failure by misdemeanor sex offender to register under the Sex Offender Registration Act, second or subsequent 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
32-947	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
32-1607	Filing a false campaign spending estimate by a candidate intending to exceed spending limitations
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

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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 the same protection order or a protection order granted to the same petitioner
44-165	Financial conglomerate or its directors, officers, employees, or agents violating supervision requirements
44-3,121	Borrowing or rental of securities of insurance company by member, director, or attorney
44-2146	Willful violation of Insurance Holding Company System Act
44-2147	Willful filing of false report under Insurance Holding Company System Act
45-191.03	Loan broker collecting advance fee in excess of \$300 and other violations of loan broker provisions
45-926	Operating delayed deposit services business without license
*46-155	Irrigation districts, officers interested in contracts, accepting bribes or gratuities
48-654.01	Engaging in business practices to avoid higher combined tax rates under the Employment Security Law
49-1476.01	Campaign contributions or expenditures by state lottery contractor
49-14,134	Filing false statement, report, or verification under Nebraska Political Accountability and Disclosure Act
49-14,135	Perjury before Nebraska Accountability and Disclosure Commission
53-122	Bribery involving signatures on petitions for elections regarding sale of liquor
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
54-1509	Importation of swine with hog cholera, interference with destruction
54-1521	Violation of laws pertaining to hog cholera control and eradication
54-1808	Violation of Nebraska Livestock Sellers Protective Act
54-1913	Violation of Nebraska Meat and Poultry Inspection Law with intent to defraud or by distributing adulterated article
57-719	Preparation or presentation of false or fraudulent oil and gas severance tax document
59-801	Unlawful restraint of trade or commerce
59-802	Unlawful monopolizing of trade or commerce
59-805	Unlawful restraint of trade; underselling
59-815	Corporation or other association engaged in unlawful restraint of trade
59-825	Refusal to attend and testify in restraint of trade proceedings



APPENDIX

59-1522	Unlawful sale and distribution of cigarettes
59-1757	Violations in sales or leases of seller-assisted marketing plans
60-176	Knowing transfer of wrecked, damaged, or destroyed motor vehicle, all-terrain vehicle, or minibike without appropriate certificate of title
60-179	Fraud or forgery in obtaining certificate of title to motor vehicle, all-terrain vehicle, or minibike
60-196	Violating laws relating to odometers
60-492	Impersonating an officer under Motor Vehicle Operator's License Act
60-4,111.01	Trade, sell, or share machine-readable information encoded on driver's license or state identification card
60-4,111.01	Compile, store, or preserve machine-readable information encoded on driver's license or state identification card without authorization
60-4,111.01	Intentional or grossly negligent programming by the programmer which allows for the storage of more than the age and identification number from machine-readable information encoded on driver's license or state identification card or wrongfully certifying the software
60-4,111.01	Retailer or seller knowingly storing more information than authorized from the machine-readable information encoded on driver's license or state identification card
60-4,111.01	Unauthorized trading, selling, sharing, use for marketing or sales, or reporting of scanned, compiled, stored, or preserved machine-readable information encoded on driver's license or state identification card
60-690	Aiding or abetting a violation of the 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	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
60-1416	Acting as motor vehicle, motorcycle, or trailer dealer, salesperson, or manufacturer, etc., without license
60-2912	Misrepresenting identity or making false statement on application submitted under the 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 \$500 or more
68-1017.01	Unlawful use, alteration, or transfer of supplemental nutrition assistance program benefits when value is \$500 or more
68-1017.01	Unlawful possession or redemption of supplemental nutrition assistance program benefits when value is \$500 or more
68-1017.01	Unlawful possession of blank supplemental nutrition assistance program authorizations

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69-109	Sale or transfer of personal property with security interest without consent
69-2408	Providing false information on an application for a certificate to purchase a handgun
69-2420	Unlawful acts relating to purchase of a handgun
69-2421	Unlawful sale or delivery of a handgun
69-2422	Knowingly and intentionally obtaining a handgun for purposes of unlawful transfer of the handgun
69-2430	Falsified concealed handgun permit application
*69-2709	Knowingly submit false information regarding cigarette and tobacco sales
70-508	False statement on sale, lease, or transfer of public electric plant
70-511	Excessive promotion expenses on sale of public electric plant
70-514	Failure to file statement of expenditures related to transfer of electric plant facilities or filing false statement
70-2104	Damage, injure, destroy, or attempt to damage, injure, or destroy equipment or structures owned and used by public power suppliers to generate, transmit, or distribute electricity or otherwise interrupt the generation, transmission, or distribution of electricity by a public power supplier
71-649	Vital statistics, unlawful acts
71-2228	Illegal receipt of food supplement benefits when value is \$500 or more
71-2229	Unlawful use, alteration, or transfer of food instruments or food supplements when value is \$500 for more
71-2229	Unlawful possession or redemption of food supplement benefits when value is \$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 the 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
77-1726	Failure of a corporation, company, or officer or agent to pay taxes
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

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77-2614	Altered, forged, or counterfeited stamp, license, permit, or cigarette tax meter impression for sale of cigarettes
77-2615	Violation of cigarette tax provisions when not otherwise specified
77-2615	Evasion of cigarette tax provisions, affixing unauthorized stamp, or sales or possession of cigarettes of manufacturer not in directory
77-2713	Failure to collect or false returns on sales and use tax
77-27,113	Evasion of income tax
77-27,114	Failure to collect or account for income taxes
77-27,116	False return on income tax
*77-27,119	Unauthorized disclosure of confidential tax information by Auditor of Public Accounts or Legislative Performance Audit Section
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	Materiel division personnel having financial or beneficial personal interest or receiving gifts or rebates
*81-1108.56	State building division personnel having financial or beneficial personal interest or receiving gifts or rebates
81-1508.01	Specific violations of Environmental Protection Act, Integrated Solid Waste Management Act, or Livestock Waste Management Act
81-15,111	Violation of Low-Level Radioactive Waste Disposal Act
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 of the Board of Parole
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
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

APPENDIX

69-110	Removal from county of personal property subject to a security interest with intent to deprive of security interest –fine of not more than one thousand dollars –imprisonment of not more than ten years
77-27,119	Unauthorized disclosure of confidential tax information by Tax Commissioner, officer, employee, or third-party auditor –fine of not less than one hundred dollars nor more than five hundred dollars –imprisonment of not more than five years –both
77-3210	Receipt of profit from rental, management, or disposition of Land Reutilization Authority lands –imprisonment of not less than two years nor more than five years
83-1,124	Parolee leaving state without permission –imprisonment of not more than five years

**OTHER MANDATORY MINIMUMS:**

29-2221 Habitual criminal

**CLASS I MISDEMEANOR      Maximum–not more than one year imprisonment, or one thousand dollars fine, or both  
Minimum–none**

2-1215	Conducting horseracing or betting on horseraces without license or violating horseracing provisions
2-1218	Drugging horses or permitting drugged horses to run in a horserace
2-2647	Violation of Pesticide Act, second or subsequent offense
8-119	Officers of corporation filing false statement for banking purposes
8-142	Bank officer, employee, director, or agent violating loan limits by \$40,000 or more or resulting in monetary loss of over \$20,000 to bank
8-145	Improper solicitation or receipt of benefits, unlawful inducement for bank loan
8-189	Attempting to prevent Department of Banking and Finance from taking possession of insolvent or unlawfully operated bank
8-1,138	Violation of a final order issued by Director of Banking and Finance
8-224.01	Division of fees for legal services by a trust company attorney
9-230	Unlawfully conducting or awarding a prize at a bingo game, second or subsequent offense
9-262	Violation of Nebraska Bingo Act when not otherwise specified, first offense
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	Violation of Nebraska Pickle Card Lottery Act when not otherwise specified, first offense
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	Violation of Nebraska Lottery and Raffle Act when not otherwise specified, first offense
9-652	Violation of Nebraska County and City Lottery Act when not otherwise specified, first offense

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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 the State Lottery Act without authorization or at other than the established price
9-814	Release of information obtained from background investigation under the State Lottery Act
10-807	Misrepresentations for aid from county aid bonds
*18-2532	Initiative and referendum, making false affidavit or taking false oath
*18-2533	Initiative and referendum, destruction, falsification, or suppression of a petition
*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 the Nebraska Fair Housing Act
20-344	Coerce, intimidate, threaten, or interfere with the exercise or enjoyment of rights under the Nebraska Fair Housing Act
20-411	Physician or health care provider failing to transfer care of patient under declaration or living will
20-411	Physician failing to record a living will or a determination of a terminal condition or persistent vegetative state
20-411	Concealing, canceling, defacing, obliterating, falsifying, or forging a living will
20-411	Concealing, falsifying, or forging a revocation of a living will
20-411	Requiring or prohibiting a living will for health care services or insurance
20-411	Coercing or fraudulently inducing an individual to make a living will
21-1912	Signing a false document under the Nebraska Nonprofit Corporation Act with intent to file with the Secretary of State
21-2012	Signing a false document under the Business Corporation Act with intent to file with the Secretary of State
28-107	Misdemeanor defined outside of criminal code
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 \$200 or more but less than \$500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal trespass in the second degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Assault in the third degree (certain situations) committed against a pregnant woman
28-201	Criminal attempt to commit a Class IIIA or IV felony
28-204	Harboring, concealing, or aiding a felon who committed a Class IV felony

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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	Knowingly viewing another person in a state of undress as it is occurring without his or her consent or knowledge in a place of solitude or seclusion
28-315	False imprisonment in the second degree
28-320	Sexual assault in the third degree
28-322.05	Unlawful use of Internet by prohibited sex offender, first offense
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 less than \$100
28-514	Theft of lost, mislaid, or misdelivered property when value is \$500 or more but not more than \$1,500
28-514	Theft of lost, mislaid, or misdelivered property when value is more than \$200 but less than \$500, second or subsequent offense
28-514	Theft of lost, mislaid, or misdelivered property when value is \$200 or less, third or subsequent offense
28-516	Unauthorized use of a propelled vehicle, second offense
28-518	Theft when value is more than \$200 but less than \$500
28-518	Theft when value is \$200 or less, second offense
28-519	Criminal mischief, pecuniary loss of \$500 or more but less than \$1,500
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 \$300 or less
28-604	Criminal possession of a forged instrument prohibited by section 28-603, value is more than \$300 but less than \$1,000
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 \$200 or more but less than \$500, first offense
28-611.01	Issuing a no-account check in an amount of \$200 or more but less than \$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

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28-620	Unauthorized use of a financial transaction device when total value is \$200 or more but less than \$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 \$200 or more but less than \$500, first offense
28-633	Printing more than the last 5 digits of a payment card account number upon a receipt provided to payment card holder, second or subsequent offense
28-635	Install object or material not designed for motor vehicle air bag system
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 \$200 or more but less than \$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 \$200, 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 \$200 or more but less than \$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 \$200, second offense
28-640	Identity fraud, first offense
28-701	Bigamy
28-705	Abandonment of spouse, child, or dependent stepchild
28-707	Child abuse committed negligently
28-709	Contributing to the delinquency of a child
*28-801	Prostitution, third or subsequent offense
*28-801.01	Solicitation of prostitution, first offense
28-804	Keeping a place of prostitution
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
28-831	Forced labor or services resulting from causing or threatening financial harm
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

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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 in an official proceeding or to mislead a public servant
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
*28-1005.01	Knowing or intentional ownership or possession of animal fighting paraphernalia for dogfighting, cockfighting, bearbaiting, or pitting an animal against another
28-1009	Abandonment or cruel neglect of animal not resulting in serious injury, illness, or death
28-1009	Cruel mistreatment of animal not involving torture or mutilation, first offense
28-1019	Violation of court order related to felony animal abuse conviction
28-1102	Promoting gambling in the first degree, first offense
28-1202	Carrying a concealed weapon, first offense
28-1204	Unlawful possession of a handgun
28-1216	Unlawful possession of explosive materials in the second degree
28-1218	Use of explosives without a permit if not eligible for a permit
28-1254	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug with person under 16 years old as passenger
28-1302	Concealment of death to prevent determination of cause or circumstances of death
28-1312	Interfering with the police radio system
28-1343.01	Unauthorized computer access creating risk to public health and safety
28-1346	Unauthorized access to or use of a computer to obtain confidential information, second or subsequent offense
29-1926	Improper release or use of a videotape of a child victim or child witness
30-3432	Altering, forging, concealing, or destroying a power of attorney for health care or a revocation of a power of attorney for health care
30-3432	Physician or health care provider willfully preventing transfer of care of principal under durable power of attorney for health care
*32-1518	Election officials, violation of duties imposed by election laws
32-1522	Unlawful printing, possession, or use of ballots
32-1546	Signing petition without being registered to vote
37-618	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



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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 with a prior conviction for violating a protection order
44-10,108	Making a fraudulent statement to a fraternal benefit society
44-2007	Violation of Unauthorized Insurers Act
44-4806	Failing to cooperate with, obstructing, interfering with, or violating any order issued by the Director of Insurance under the 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 the Nebraska Installment Loan Act
46-1141	Unlawful tampering with or damaging chemigation equipment
48-125.01	Attempted avoidance of payment of workers' compensation benefits
48-145.01	Failure to comply with workers' compensation insurance required of employers
48-211	Failure or refusal to supply laborer's service letter
48-821	Interfere with or coerce others to strike or otherwise hinder governmental service
48-1908	Drug or alcohol tests, altering results
48-1909	Drug or alcohol tests, tampering with body fluids
48-2615	Athlete agent violating Nebraska Uniform Athlete Agents Act
48-2711	Violations relating to professional employer organizations
53-122	Violations involving signatures on petitions for elections regarding sale of liquor
53-180.05	Creation or alteration of identification for sale or delivery to a person under twenty-one years of age
53-180.05	Dispensing alcohol in any manner to minors or incompetents not resulting in serious bodily injury or death
54-1,125	Forging or altering livestock ownership document when value is \$300 or less
54-622.01	Owner of dangerous dog which inflicts serious bodily injury, first offense
54-634	Violation of Commercial Dog and Cat Operator Inspection Act
54-750	Harboring or prohibited sale of diseased animals, second or subsequent offense
54-751	Violation of rules and regulations relating to diseased animals and disposal of carcasses, second or subsequent offense
54-752	Violation of laws relating to diseased animals and disposal of carcasses, second or subsequent offense
54-771	Failure by herd owner or custodian to develop or follow a herd plan relating to livestock anthrax
*54-778	Failure to comply with the Anthrax Control Act
54-781	Violation of the Anthrax Control Act when not otherwise specified

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*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
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 or law enforcement
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 the 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
*60-6,218	Reckless driving or willful reckless driving, third or subsequent offense
*60-2912	Disclosure of sensitive personal information by Department of Motor Vehicles
66-1226	Selling automotive spark ignition engine fuels not within specifications, first offense
*69-2408	Intentional violation of provisions on acquisition of handguns
69-2419	Unlawful request for criminal history record check or dissemination of such information
*69-2443	Refusal to allow peace officer or emergency services personnel to secure concealed handgun
*69-2443	Carrying concealed handgun at prohibited site or while under the influence, second or subsequent offense
*69-2443	Failure to report discharge of concealed handgun, second or subsequent offense
*69-2443	Failure to carry or display concealed handgun permit, second or subsequent offense
*69-2443	Failure to inform peace officer of concealed handgun, second or subsequent offense
71-458	Violation of Health Care Facility Licensure Act
71-649	Vital statistics, unlawful acts
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

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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 the Residential Lead-Based Paint Professions Practice Act after assessment of a civil penalty, first offense
74-921	Operating a locomotive or acting as the conductor while intoxicated
75-127	Unjust discrimination or prohibited practice in rates by common carrier, shipper, or consignee
76-1315	Violation of laws on retirement communities and subdivisions
76-1722	Unlawful time-share interval disposition or violating time-share laws
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of \$500 or more but less than \$1,500 (certain situations)
77-1816	Fraudulent sales of real property for delinquent real estate taxes
77-2115	Disclosure of confidential information on estate or generation-skipping transfer tax records
77-2326	Failure to act regarding deposit of county funds by county treasurers
77-2384	Secretary-treasurer of local hospital district, failure to comply with provisions on deposit of public funds
77-2704.33	Failure of a contractor or taxpayer to pay certain sales taxes of \$300 or more
77-2711	Wrongful disclosure of records and reports relating to sales and use tax
77-2711	Disclosure of taxpayer information by employees of Legislative Performance Audit Section or Auditor of Public Accounts or former employees
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 the 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
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

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*86-2,104	Unlawful access to electronic communication service
88-548	Illegal use of grain probes
89-1,101	Violation of Weights and Measures Act or order of Department of Agriculture, second or subsequent offense

**CLASS II MISDEMEANOR    Maximum—six months imprisonment, or  
one thousand dollars fine, or both  
Minimum—none**

1-166	Accountants, persons using titles, initials, trade names when not qualified or authorized to do so
2-10,115	Specified violations of Plant Protection and Plant Pest Act, second or subsequent offense
2-1221	Receipt or delivery of certain off-track wagers
2-1240	Improper placement or acceptance of wagers by telephone deposit center
2-1811	Violation of Nebraska Potato Development Act
3-152	Violation of State Aeronautics Department Act
*8-109	Bank 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
8-702	Banking institution failing to give notice if deposits are not insured
9-345.03	Unlawfully placing a pickle card dispensing device in operation
9-513	Violation of Nebraska Small Lottery and Raffle Act, second or subsequent offense
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 of age
12-1118	False or fraudulent reporting or any violation under Burial Pre-Need Sale Act
*22-303	Relocation of county seats, refusal by officers to move offices and records
23-135.01	False claim against county when value is more than \$100 but less than \$1,000
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 \$200, 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

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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
28-511.03	Possession in store of security device countermeasure
28-514	Theft of lost, mislaid, or misdelivered property when value is more than \$200 but less than \$500
28-514	Theft of lost, mislaid, or misdelivered property when value is \$200 or less, second offense
28-515.01	Fraudulently obtaining telecommunications service
28-518	Theft when value is \$200 or less
28-519	Criminal mischief, pecuniary loss of \$200 or more but less than \$500
28-521	Criminal trespass in the second degree (certain situations)
28-523	Littering, second offense
28-604	Criminal possession of a forged instrument prohibited by section 28-603, value is \$300 or less
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 \$200, 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 \$200, 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 \$200 within a six-month period
28-631	Committing a fraudulent insurance act when the amount involved is less than \$200
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 \$200, first offense
28-638	Criminal impersonation by providing false identification information to employer to obtain employment, first offense
28-639	Identity theft if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$200, first offense
28-706	Criminal nonsupport not in violation of court order
*28-801	Prostitution, first or second offense
28-806	Public indecency

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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 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
28-1346	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
32-1604	Failure to file affidavit to report spending 40 percent or more of limitation on campaign expenditures
32-1607	Knowingly and willfully exceeding campaign spending limitations
*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 and regulations under the Game Law regarding hunting, transportation, and possession of deer
*37-449	Violation of rules and regulations under the Game Law regarding hunting antelope
*37-479	Luring or enticing wildlife into a domesticated cervine animal facility
*37-4,108	Violating commercial put-and-take fishery licensure requirements
*37-504	Unlawfully hunt, trap, or possess mountain sheep
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

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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
42-924	Knowingly violating a protection order issued pursuant to domestic abuse or harassment case, first offense
42-1204	False or incorrect information on application to restrict disclosure of applicant's address
43-2,107	Violation of restraining or other court order under Nebraska Juvenile Code
44-3,156	Violations of provisions permitting purchase of workers' compensation insurance by associations
44-1209	Reciprocal insurance, violations by attorney in fact
45-208	Violation of maximum rate of time-price differential, revolving charge agreements
45-343	Installment sales, failure to obtain license
45-343	Violation of Nebraska Installment Sales Act
45-747	Engaging in mortgage banking or mortgage loan originating without a license or registration
45-814	Violation of Credit Services Organization Act
45-1037	Violations regarding installment loans
46-254	Interfering with closed waterworks, taking water without authority
46-263.01	Molesting or damaging water flow measuring devices
46-807	Unlawful diversion or drainage of natural lakes
46-1119	Violation of emergency permit provisions of Nebraska Chemigation Act
46-1139	Unlawfully engaging in chemigation without a chemigation permit
46-1140	Unlawfully engaging in chemigation with a suspended or revoked chemigation permit

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46-1239	Violating the licensure requirements of the 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
48-645	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
48-1816	Violation of Nebraska Amusement Ride Act
48-2533	Install a conveyance in violation of the Conveyance Safety Act
50-1215	Obstruct, hinder, or mislead a legislative performance audit or preaudit inquiry
52-124	Failure to discharge construction liens, failure to apply payments for lawful claims
53-111	Nebraska Liquor Control Commission, gifts or gratuities forbidden
53-164.02	Evasion of liquor tax
53-186.01	Permitting consumption of liquor in unlicensed public places, second or subsequent offense
53-187	Nonbeverage liquor licensee giving or selling liquor fit for beverage purposes, second or subsequent offense
53-1,100	Violation of Nebraska Liquor Control Act, second or subsequent offense
54-1,125	Using false evidence of ownership of livestock
54-1,126	Violation of Livestock Brand Act when not otherwise specified
54-415	Estrays, illegal sale, disposition of proceeds
54-706.05	Interfere with or obstruct inspections or tests under the Bovine Tuberculosis Act
54-706.08	Prevent testing of or remove animal quarantined under the Bovine Tuberculosis Act
54-706.10	Interfere with or obstruct confining of affected herds or examinations or tests under the Bovine Tuberculosis Act
54-706.17	Other violations of the Bovine Tuberculosis Act or rules and regulations
54-750	Harboring or prohibited sale of diseased animals, first offense
54-751	Violation of rules and regulations relating to diseased animals and disposal of carcasses, first offense
54-752	Violation of laws relating to diseased animals and disposal of carcasses, first offense
54-796	Violation of Animal Importation Act, second or subsequent offense
54-861	Violation of Commercial Feed Act, second or subsequent offense
54-1171	Violation of Livestock Auction Market Act



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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
54-2288	Violation of quarantine requirements under Pseudorabies Control and Eradication Act, second or subsequent offense
54-22,100	Violation of Pseudorabies Control and Eradication Act, second or subsequent offense
54-2323	Violation of Domesticated Cervine Animal Act, second or subsequent offense
54-2761	Violation of Scrapie Control and Eradication Act, second or subsequent offense
55-142	Trespassing on place of military duty, obstructing person in military duty, disrupting orderly discharge of military duty, disturbing or preventing passage of military troops
55-175	Refusal by restaurant, hotel, or public facility to serve person wearing prescribed National Guard uniform
55-428	Code of military justice, witness failure to appear
57-915	Violation of oil and gas conservation laws
*60-3,167	Operating or allowing the operation of motor vehicle or trailer without proof of financial responsibility
*60-4,108	Operating motor vehicle in violation of court order or while operator's license is revoked or impounded
*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 the 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
60-6,336	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 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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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 the Sex Offender Commitment Act
71-962	Willful violation involving records under Nebraska Mental Health Commitment Act or the 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
71-2512	Violation of provisions on poisons and adulterated or misbranded drugs when not otherwise specified, second offense
71-3213	Violation of laws pertaining to private detectives
72-245	Waste, trespass, or destruction of trees on school lands
*72-313	Violation of mineral or water rights on state lands
72-802	Violation of plans, specifications, bids, or appropriations on public buildings
75-127	Unjust discrimination or prohibited practices in rates by officers, agents, or employees of a common carrier
75-428	Failure of railroad to provide transfer facilities at intersections upon order of the 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
79-949	False or fraudulent acts to defraud the school retirement system
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

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81-885.45	Acting as real estate broker, salesperson, or subdivider without license or certificate or under suspended license or certificate
81-8,254	Obstruct, hinder, or mislead Public Counsel in inquiries
81-1023	Use of improperly marked or equipped state-owned motor 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
84-1327	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**

2-1825	Violation of Nebraska Potato Inspection Act
2-2319	Violation of Nebraska Wheat Resources Act
2-2647	Violation of Pesticide Act, first offense
2-3008	Violation of Nebraska Poultry Disease Control Act
2-3416	Violation of Nebraska Poultry and Egg Resources Act
2-3635	Violation of Nebraska Corn Resources Act
2-3765	Violation of Dry Bean Resources Act
2-3963	Violation of Dairy Industry Development Act
2-4020	Violation of Grain Sorghum Resources Act
2-5605	Violations relating to excise taxes on grapes
3-330	Violation of Airport Zoning Act
3-408	Violation of provisions regulating aircraft obstructions or structures
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 the Nebraska Banking Act when not otherwise specified
8-1014	Violation of Nebraska Sale of Checks and Funds Transmission Act, acting without license
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

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14-2149	Violations relating to gas and water utilities in cities of the metropolitan class
18-305	Telephone company providing special rates to city or village officer or such officer accepting special rates
18-306	Electric company providing special rates to city or village officer
18-307	City or village officer accepting electric service at special rates
18-308	Water company providing special rates to city or village officer or such officer accepting special rates
18-1741.05	Failure to appear or comply with handicapped parking citation
18-2715	Unauthorized disclosure of confidential business information under city ordinance pursuant to Local Option Municipal Economic Development Act
19-2906	Disclosures by accountant of results of examination of municipal accounts
20-129	Interfering with rights of blind, deaf, or physically disabled persons and with admittance to or enjoyment of public facilities
20-129	Interfering with rights of a service animal trainer and with admittance to or enjoyment of public facilities
21-622	Illegal use of society emblems
23-114.05	Violation of county zoning regulations
23-135.01	False claim against county when value is less than \$100
*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
*28-416	Knowingly or intentionally possessing more than 1 ounce but not more than 1 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
28-425	Use of arsenic or strychnine in embalming fluids, violations of labeling requirements
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 \$200 or less, first offense
28-515.02	Theft of utility service and interference with utility meter

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28-516	Unauthorized use of a propelled vehicle, first offense
28-519	Criminal mischief, pecuniary loss of less than \$200
28-521	Criminal trespass in the second degree (certain situations)
28-523	Littering, first offense
*28-524	Unauthorized application of graffiti, first offense
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 injury of violence
28-914	Loitering about a penal institution
28-923	Simulating legal process
28-925	Misuse of official information
*28-927	Neglecting to serve warrant if offense for warrant is a misdemeanor
28-928	Mutilation of a flag of the United States or the State of Nebraska
28-1009.01	Violence on or interference with a service animal
28-1010	Indecency with an animal
28-1209	Failure to register tranquilizer guns
28-1210	Failure to notify sheriff of sale of tranquilizer gun
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
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 to minors
28-1420	Sale or purchase for resale of tobacco without license
*28-1425	Licensee selling or furnishing tobacco to minors
*28-1429.02	Dispensing cigarettes or other tobacco products from vending machines or similar devices in certain locations
28-1438	Unlawful possession of legend drug substances

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*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
28-1479	Sale of certain beverage cans with removable tabs
*29-817	Disclosing of search warrant prior to its execution
29-835	Refusing to permit, interfering with, or preventing inspection pursuant to inspection warrant
29-4110	Unlawful possession of DNA samples or records
29-4111	Unlawful disclosure of DNA samples or records
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 and regulations under the 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 the 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 of age without written parental permission
*37-450	Violation of rules and regulations under the Game Law regarding hunting elk
*37-451	Violation of rules and regulations under the 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 the Game Law

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*37-504	Hunting, trapping, or possessing animals or birds out of season
*37-504	Unlawfully taking or possessing game
*37-505	Unlawful purchase, sale, or barter of animals, birds, or fish or parts thereof
37-507	Abandonment, waste, or failure to dispose of fish, birds, or animals
37-508	Storing game or fish in cold storage after prescribed storage season or without proper tags
37-510	Violating game shipment requirements
*37-511	Violating importation restrictions on game shipments
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
*37-525	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
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 the Game Law
*37-615	Taking wildlife or applying for permit with a suspended or revoked permit
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

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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
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 Roads
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 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



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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
48-216	Discrimination in employment by manufacturer or distributor of military supplies
*48-511	Employment agencies splitting fees with employers
*48-513	Violation of private employment agency provisions when not otherwise specified
48-612	Commissioner of Labor employees violating provisions relating to administration of Employment Security Law
48-612.01	Unauthorized disclosure of information received for administration of Employment Security Law
48-614	Contumacy or disobedience to subpoenas in unemployment compensation proceedings
48-663	False statements or failure to disclose information by employees to obtain unemployment compensation benefits
48-664	False statements by employers to obtain unemployment compensation benefits
48-666	Violation of Employment Security Law when not otherwise specified
48-736	Violation of Boiler Inspection Act
*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

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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
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
53-167.02	Violations relating to beer keg identification numbers
53-167.03	Tamper with, alter, or remove beer keg identification number or possess beer container with altered or removed keg identification number
53-180.05	Misrepresentation of age by minor to obtain or attempt to obtain alcoholic liquor
53-180.05	Minor over 18 years old and under 21 years old in possession of alcoholic liquor
53-180.05	Parent or guardian knowingly permitting minor to violate alcoholic liquor laws
*53-181	Minor 18 years old or younger in possession of alcoholic liquor
53-186.01	Consumption of liquor in unlicensed public places
54-796	Violation of Animal Importation Act, first offense
*54-904	Indecency with a livestock animal
54-1408	Violations when sheep are infected with scabies
54-1711	Livestock dealer violating provisions of Nebraska Livestock Dealer Licensing Act
*54-1913	Meat and poultry inspector, officer, or employee accepting bribes
54-2288	Violation of quarantine requirements under Pseudorabies Control and Eradication Act, first offense
57-507	Unlawful use of liquefied petroleum gas cylinders
57-1106	Willfully and maliciously breaking, injuring, damaging, or interfering with oil or gas pipeline, plant, or equipment
60-142	Using a bill of sale for a parts vehicle to transfer ownership of any vehicle other than a parts vehicle
60-180	Prohibited acts relating to certificates of title for motor vehicles, all-terrain vehicles, or minibikes
60-3,113.07	Knowingly provide false information on an application for a handicapped or disabled parking permit
60-3,170	Violation of Motor Vehicle Registration Act when not otherwise specified
60-3,171	Fraud in registration of motor vehicle or trailer
60-3,176	Disclosure of information regarding undercover license plates to unauthorized individual
60-3,206	Violation of International Registration Plan Act

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60-480.01	Disclosure of information regarding undercover drivers' licenses to unauthorized individual
*60-4,108	Operating motor vehicle while operator's license is suspended or after revocation or impoundment but before licensure
*60-4,109	Operating motor vehicle while operator's license is suspended or after revocation or impoundment but before licensure for violation of city or village ordinance
60-4,111	Violation of Motor Vehicle Operator's License Act when not otherwise specified
60-4,118	Failure to surrender operator's license or appear before examiner regarding determination of physical or mental competence
60-4,140	Commercial driver, multiple operators' licenses
60-4,141	Operation of commercial motor vehicle outside operator's license 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 or licensing provisions
60-4,170	Failure to surrender commercial driver's license
60-4,179	Violation of driver training instructor or school provisions
60-4,184	Failure to surrender operator's license for loss of license under point system
*60-4,186	Illegal operation of motor vehicle under period of license revocation for loss of license under point system
60-558	Failure to return motor vehicle license or registration to Department of Motor Vehicles for violation of financial responsibility provisions
60-560	Violation of Motor Vehicle Safety Responsibility Act when not otherwise specified
60-678	Operation of vehicles in certain public places where prohibited, where not permitted, without permission, or in a dangerous manner
60-690	Aiding or abetting a violation of the 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
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

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60-6,299	Violation of or failure to obtain permit to move building or other object on highway
60-6,303	Refusal to weigh vehicle or lighten load
60-6,336	Snowmobile contest on highway without permission, first offense within one year
60-6,343	Violation of provisions relating to snowmobiles, first offense within one year
60-6,352	Illegal operation of minibikes on state highway
60-6,353	Operating a minibike in a place, at a time, or in a manner not permitted by regulatory authority
60-6,362	Violation of all-terrain vehicle requirements, first offense within one year
60-1307	Failing to appear at hearing for violations discovered at weigh stations
60-1308	Failure to comply with weigh station requirements
60-1309	Resisting arrest or disobeying order of carrier enforcement officer at weigh station
60-1418	Violating conditions of a motor vehicle sale
62-304	Limitation upon negotiation of tuition notes or contracts of business colleges
64-105.03	Unauthorized practice of law by notary public
66-107	Illegal use of containers for gasoline or kerosene
66-1345.03	Failure to administer and keep records of excise tax on corn and grain sorghum under Ethanol Development Act
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 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
69-2012	Violation of Degradable Products Act
*69-2443	Carrying concealed handgun at prohibited site or while under the influence, first offense
*69-2443	Failure to report discharge of concealed handgun, first offense
*69-2443	Failure to carry or display concealed handgun permit, first offense
*69-2443	Failure to inform peace officer of concealed handgun, first offense
69-2709	Selling, possessing, or distributing cigarettes in violation of stamping requirements
71-220	Violation of barbering provisions
71-506	Willful or malicious disclosure of confidential reports, notifications, and investigations relating to communicable diseases
71-542	Unauthorized disclosure of confidential immunization information
71-613	Violation of provisions on vital statistics
71-1371	Violation of the 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 less than \$500
71-2229	Using, altering, or transferring food instruments or food supplements when value is less than \$500

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71-2229	Illegal possession or redemption of food supplement benefits when value is less than \$500
71-2512	Violation involving poisons and adulterated or misbranded drugs when not otherwise specified, first offense
71-4632	Mobile home parks established, conducted, operated, or maintained without license, nuisance
71-6741	Violation of the 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 the Public Service Commission to records of a motor or common carrier
75-367	Violation of motor carrier safety regulations or hazardous materials regulations
76-505	Judges and other county officers engaging in business of abstracting
76-558	Unlawful practice in business of abstracting
76-2246	Unlawful practice as a real property appraiser
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of less than \$200 (certain situations)
77-1719.02	Violations by county board members regarding collection of personal taxes and false returns
77-2619	Fail, neglect, or refuse to report or make false statement regarding cigarette taxation
77-3407	Unlawful signature on budget limitation petition
79-210	Violation of compulsory school attendance provisions
79-603	School vehicles, violation of safety requirements and operating school vehicles which violate safety requirements when not otherwise specified
79-727	Violation of character education requirements
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
81-513	Violation of order of State Fire Marshal directing the closing of a building pending repair
81-8,127	Unlawful practice of land surveying or use of title
81-8,142	Violation of provisions relating to the State Athletic Commissioner
81-8,205	Unlawful practice as a professional landscape architect
81-1508.01	Knowing and willful violation of Environmental Protection Act, Integrated Solid Waste Management Act, or Livestock Waste Management Act when not otherwise specified
81-2008	Failure to obey rules or orders of or resisting arrest by Nebraska State Patrol
82-111	Destroy, deface, remove, or injure monuments marking Oregon Trail
82-507	Knowingly and willfully appropriate, excavate, injure, or destroy any archaeological resource on public land without written permission from the State Archaeology Office

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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
84-712.09	Violation of provisions for access to public records
84-1213	Mutilation, transfer, removal, damage, or destruction of or refusal to return government records
84-1414	Unlawful action by members of public bodies in public meetings, second or subsequent offense
86-290	Intercepting or interfering with certain wire, electronic, or oral communication
86-606	Unlawful delay or disclosure of telegraph dispatches
89-1,101	Violation of Weights and Measures Act or order of Department of Agriculture, first offense
90-104	Use of state banner as advertisement or trademark

**CLASS IIIA MISDEMEANOR      Maximum—seven days imprisonment,  
five hundred dollars fine, or both  
Minimum—none**

*28-416	Knowingly or intentionally possessing one ounce or less of marijuana or any substance containing a quantifiable amount of a material, compound, mixture, or preparation containing any quantity of synthetically produced cannabinoids, third or subsequent offense
*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 the Nebraska Rules of the Road
60-6,196.01	Driving under the influence with a prior felony DUI conviction
60-6,275	Operating or possessing radar transmission device while operating motor vehicle
60-6,378	Failure to move over, proceed with due care and caution, or follow officer's directions when passing a stopped emergency or road assistance vehicle, second or subsequent offense
77-2704.33	Failure of a contractor or taxpayer to pay certain sales taxes of less than \$300
79-1602	Transmitting or providing for transmission of false school information when electing not to meet school accreditation or approval requirements
89-1,107	Use of a grain moisture measuring device which has not been tested
89-1,108	Violation of laws on grain moisture measuring devices

**CLASS IV MISDEMEANOR      Maximum—no imprisonment,  
five hundred dollars fine  
Minimum—one hundred dollars fine**

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

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2-10,115	Specified violations of Plant Protection and Plant Pest Act, first offense
2-1207	Knowingly aiding or abetting a minor to make a parimutuel wager
2-1806	Engaging in business as a potato shipper without a license
2-1807	Failure by potato shipper to file statement or pay tax
2-3109	Violation of Nebraska Soil and Plant Analysis Laboratory Act when not otherwise specified
2-3223.01	Failure to file audit of natural resources district
2-3524	Violation of Nebraska Graded Egg Act
2-4327	Violation of Agricultural Liming Materials Act, second or subsequent offense
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 of age
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 the Burial Pre-Need Sale Act
19-1847	Violation of Civil Service Act
20-149	Failure of consumer reporting agency to provide reports to consumers
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 to the National Precursor Log Exchange administered by the National Association of Drug Diversion Investigators or knowingly submit incorrect information to the exchange
28-1009	Harassment of police animal not resulting in death of animal
28-1019	Violation of court order related to misdemeanor animal abuse conviction
28-1104	Promoting gambling in the third degree
28-1253	Distribution, sale, or use of refrigerants containing liquefied petroleum gas
28-1304	Putting carcass or filthy substance in well or running water
28-1405	Failure to acquire locksmith registration certificate
29-3527	Unlawful access to or dissemination of criminal history record information
32-1507	Elections, false representation of political party affiliation
32-1517	Refusing to serve as election official
32-1520	Printing or distribution of illegal ballots
32-1547	Elections, filing for more than one elective office

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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
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
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
49-1445	Violation of requirement to form candidate committee upon raising, receiving, or expending more than five thousand dollars in a calendar year
49-1446	Violations relating to campaign committee funds
49-1467	Failure to report campaign expenditure in excess of \$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
53-186.01	Permitting consumption of liquor in unlicensed public places, first offense



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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
*54-726.04	Importing diseased swine without permit
54-753.04	Unlawful feeding of garbage to animals
54-861	Violation of Commercial Feed Act, first offense
54-861	Improper use of trade secrets in violation of Commercial Feed Act
54-909	Violating court order not to own or possess a livestock animal after the date of conviction for indecency with a livestock animal, first offense
	cruel mistreatment of an animal, or intentionally, knowingly, or recklessly abandoning or cruelly neglecting livestock animal not resulting in serious injury or illness or death of the livestock animal
54-1371	Failure by owner to carry out brucellosis testing responsibilities
54-1377	Diversion of livestock from particular destination without permission or removing or altering livestock identification for such purposes
54-1384	Violation of Nebraska Bovine Brucellosis Act when not otherwise specified
54-1411	Violation of provisions relating to animals with scabies when not otherwise specified
54-1605	Violation of accreditation provisions for specific pathogen-free swine
54-22,100	Violation of Pseudorabies Control and Eradication Act, first offense
54-2323	Violation of Domesticated Cervine Animal Act, first offense
*54-2612	Unlawful sale of swine by packer
54-2615	False reporting of swine by packer
*54-2622	Unlawful sale of cattle by packer
54-2625	False reporting of cattle by packer
54-2761	Violation of Scrapie Control and Eradication Act, first offense
*55-165	Discriminating against an employee who is a member of the reserve military forces
*55-166	Discharging employee who is a member of the National Guard or armed forces of the United States for military service
57-516	Violation of provisions relating to sale of liquefied petroleum gas
57-719	Violating or aiding and abetting violations of oil and gas severance tax laws
57-1213	Failure or refusal to make uranium severance tax return or report
60-3,168	Failure to have and keep liability insurance or other proof of financial responsibility on motor vehicle
*60-3,169	Unauthorized use of vehicle registered as farm truck
60-3,172	Registration of motor vehicle or trailer in location other than that authorized by law
60-3,173	Improper increase of gross weight or failure to pay registration fee on commercial trucks and truck-tractors
*60-3,174	Improper use of a vehicle with a special equipment license plate
60-4,129	Violation involving use of an employment driving permit
60-4,130	Failure to surrender an employment driving permit
60-4,130.01	Violation involving use of a medical hardship driving permit
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road

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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
60-1407.02	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
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
71-3517	Violation of Radiation Control Act
71-4632	Mobile home parks established, conducted, operated, or maintained without license
71-5312	Violation of Nebraska Safe Drinking Water Act
71-5407	Violation of Nebraska Drug Product Selection Act or rules and regulations under the act
*71-5733	Smoking in place of employment or public place, second or subsequent offense
71-5733	Proprietor violating Nebraska Clean Indoor Air Act, second or subsequent offense
*71-5870	Engaging in activity prohibited by the 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 the Public Service Commission by a motor or common carrier
75-155	Knowing and willful violation of Chapter 75 or 86 when not otherwise specified
75-371	Operating motor vehicle in violation of insurance and bond requirements for motor carriers

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75-398	Operation of vehicle in violation of provisions relating to the unified carrier registration plan and agreement
75-426	Failure to file report of railroad accident
77-1232	Failure to list or filing false list of personal property for tax purposes prior to 1993
77-1324	False statement of assessment of public improvements
77-2026	Receipt by inheritance tax appraiser of extra fee or reward
77-2350.02	Failure to perform duties relating to deposit of public funds by school district or township treasurer
77-2713	Violation of laws relating to sales and use taxes when not otherwise specified
77-3709	Violation of reporting and permit requirements for mobile homes
81-2,147.09	Violation of Nebraska Seed Law
81-2,154	Violation of state-certified seed laws
81-2,290	Violation of Nebraska Pure Food Act
81-520.02	Violation of open burning ban or range-management burning permit
81-5,131	Violation of provisions relating to arson information
81-674	Wrongful disclosure of confidential data from medical record and health information registries or deceitful use of such information
81-1525	Failure or refusal to remove accumulation of junk
81-1559	Failure of manufacturer or wholesaler to obtain litter fee license
81-1560.01	Failure of retailer to obtain litter fee license
81-1577	Failure to register hazardous substances storage tanks
81-1626	Lighting and thermal efficiency violations
84-1414	Unlawful action by members of public bodies in public meetings, first offense
86-162	Failure to provide telephone services

**CLASS V MISDEMEANOR    Maximum—no imprisonment,  
one hundred dollars fine  
Minimum—none**

2-219	Conducting indecent shows or exhibits or gambling at state, district, or county fairs
2-220	State, district, and county fairs, refusal or failure to remove illegal devices
2-3292	Conducting recreational activities outside of designated areas in a natural resources district recreation area
2-3293	Smoking and use of fire or fireworks in a natural resources district recreation area
2-3294	Pets or other animals in a natural resources district recreation area
2-3295	Hunting, fishing, trapping, or using weapons in a natural resources district recreation area
2-3296	Conducting prohibited water-related activities in a natural resources district recreation area
2-3297	Destruction or removal of property, constructing a structure, or trespassing in a natural resources district recreation area
2-3298	Abandoning vehicle in a natural resources district recreation area
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

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2-4327	Violation of Agricultural Liming Materials Act, first offense
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, refusal to exhibit records
24-216	Clerk of Supreme Court, fees, neglect or fraud in report
28-3,107	Intentional or reckless falsification of report required under the 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
28-1305	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 by minors
28-1427	Minor misrepresenting age to obtain tobacco
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
32-1525	Exit interviews with voters near polling place on election day

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32-1527	Voter voting ballot, unlawful acts
32-1535	Unlawful removal of ballot from polling place
33-132	Failure or neglect to charge, keep current account of, report, or pay over fees by any officer
37-305	Violation of rules and regulations for camping areas
37-306	Violation of rules and regulations for fire safety
37-307	Violation of rules and regulations for animals on state property
37-308	Violation of rules and regulations for hunting, fishing, trapping, and use of weapons on state property
37-309	Violation of rules and regulations for water-related recreational activities on state property
37-310	Violation of rules and regulations for real and personal property on state property
37-311	Violation of rules and regulations for vendors on state property
37-313	Violation of rules and regulations for traffic on state property under Game and Parks Commission jurisdiction
37-321	Fishing violation in emergency created by drying up of waters
37-349	Use of state park name for commercial purposes
*37-428	Obtaining habitat stamps, aquatic habitat stamps, or migratory waterfowl stamps by false pretenses or misuse of stamps
*37-433	Violation of provisions on habitat stamps or aquatic habitat stamps
*37-443	Entry by a motor vehicle to a park permit area without a valid park permit
37-476	Violation of aquaculture provisions
37-504	Unlawfully taking, possessing, or destroying certain birds, eggs, or nests
37-527	Failure to display required amount of hunter orange material when hunting
37-541	Kill, injure, or detain carrier pigeons or removing identification therefrom
37-553	Violation by owner of dam to maintain water flow for fish
37-609	Resisting officer or employee of the Game and Parks Commission
37-610	Falsely representing oneself as officer or employee of the Game and Parks Commission
37-728	False statements about fishing on privately owned land
37-1270	Violation of State Boat Act when not otherwise specified
37-12,107	Destroy, deface, or remove any part of unattended or abandoned motorboat
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

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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
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
48-2533	Knowing violation of the Conveyance Safety Act
49-211	Failure of election officers to make returns on adoption of constitutional amendment
49-14,103.04	Negligent violation of conflict of interest prohibitions
51-109	Illegal removal of books from State Library
53-197	Neglect or refusal of sheriffs or police officers to make complaints against violators of liquor laws
54-302	Driving off livestock belonging to another
*54-306	Driving cattle, horses, or sheep across private lands causing injury
54-7,104	Failure to take care of livestock during transport
54-1523	Misrepresentation of hogs as having had double inoculation against cholera
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
*60-3,166	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 the 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 DMV 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

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60-6,248	Selling hydraulic brake fluid that does not meet requirements
60-6,258	Owning or operating a motor vehicle with illegal sunscreening or glazing material on windshield or windows
60-6,266	Sale of motor vehicle which does not comply with occupant protection system (seat belt) requirements
60-6,287	Operating a motor vehicle which is equipped to enable the driver to watch television while driving
60-6,319	Commercial dealer selling bicycle which fails to comply with requirements
60-6,373	Operation of diesel-powered motor vehicle in violation of controls on smoke emission and noise
60-1411.04	Unlawful advertising of motor vehicles
60-1808	Violation of laws relating to motor vehicle camper units
60-1908	Destroying, defacing, or removing parts of abandoned motor vehicles
61-211	Managers or operators of interstate ditches failing to install measuring devices and furnish daily gauge height reports
69-208	Violation of laws relating to pawnbrokers and dealers in secondhand goods
69-1005	Violation of requirements for sale at auction of commercial chicks and poultry
69-1007	Failure to keep records on sale of poultry
69-1008	False representation in sale of poultry
69-1102	Failing to comply with labeling requirements on binder twine
70-409	Violation of rate regulations by electric companies
70-624	Failure of chief executive officer to publish salaries of public power district officers
71-503	Physician failing to report existence of contagious disease, illness, or poisoning
71-506	Violation of prevention and testing provisions for contagious and infectious diseases
71-1006	Violation of laws relating to disposal of dead bodies
71-1571	Installation of 4 or more showers or bathtubs without scald prevention device
71-2511	Violation of restrictions on sale of poisons
71-3107	Violation of laws relating to recreation camps
71-4410	Violation of rabies control provisions
*71-5733	Smoking in place of employment or public place, first offense
71-5733	Proprietor violating Nebraska Clean Indoor Air Act, first offense
74-593	Using track motor cars on rail lines without headlights or rear lights
74-605	Failure of railroad to report or care for injured animals
74-1308	Failure of Railroad Transportation Safety District treasurer to file report or neglect of duties or refusal by district officials to allow inspection of records
*74-1340	Failure, neglect, or refusal to comply with order of Department of Roads 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

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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 I, II, III, or VI 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
*79-899	Failure of school board to suspend or dismiss teacher for wearing religious garb on duty
79-949	Failure or refusal to furnish information to retirement board for school employees retirement
79-1084	Secretary of Class III school board failing or neglecting to publish budget documents
79-1086	Secretary of Class V school board failing or neglecting to publish budget documents
81-520	Failure to comply with order of State Fire Marshal to remove or abate fire hazards
81-522	Failure of city or county authorities to investigate and report fires
81-538	Violation of State Fire Marshal or fire abatement provisions when not otherwise specified
81-5,146	Violation of smoke detector provisions
81-5,163	Water-based fire protection system contractor failing to comply with requirements
81-649.02	Failure by hospital to make reports to cancer registry
81-6,120	Provision of transportation services by certain persons or failing to submit to background check prior to providing such services to vulnerable adults or minors on behalf of Department of Health and Human Services
81-1024	Personal use of state-owned motor vehicle
81-1551	Failure to place litter receptacles on premises in sufficient number
81-1552	Damaging or misusing litter receptacle
*82-124	Damage to property of Nebraska State Historical Society
82-126	Violating restrictions on visitation to state sites and monuments
83-356	Mistreatment of mentally ill persons
86-161	Failure of telecommunications company to file territorial maps
86-609	Unlawful telegraph dispatch activities
88-549	Failure of warehouse licensee to send written notice to person storing grain of amount, location, and fees

**CLASS W MISDEMEANOR**

**First Conviction: Maximum—sixty days imprisonment and five hundred dollars fine**

**Mandatory minimum—seven days imprisonment and five hundred dollars fine**

**Second Conviction: Maximum—six months imprisonment and five hundred dollars fine**



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**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 the 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 alcohol concentration, first offense only
- \*60-6,197.03 Refusal to submit to chemical blood, breath, or urine test

**UNCLASSIFIED MISDEMEANORS, see section 28-107**

- 14-227 Failure to remit fines, penalties, and forfeitures to city treasurer  
–fine of not more than one thousand dollars  
–imprisonment of not more than six months
- 14-229 City officer or employee exerting influence regarding political views  
–fine of not more than one hundred dollars  
–imprisonment of not more than thirty days
- 14-415 Violation of building regulations  
–fine of not less than ten dollars nor more than one hundred dollars
- 15-215 Using unsafe building for the assembly of more than 12 persons  
–fine of not more than two hundred dollars
- 16-233 Using unsafe building for the assembly of more than 12 persons  
–fine of not more than two hundred dollars
- 16-706 Unauthorized use of city funds by city council member or city officer  
–fine of twenty-five dollars plus costs of prosecution
- 18-1914 Violation of plumbing ordinances or plumbing license requirements  
–fine of not more than fifty dollars and not less than five dollars per violation
- 18-1918 Installing or repairing sanitary plumbing without permit  
–fine of not less than fifty dollars nor more than five hundred dollars
- 18-2205 Violation involving community antenna television service or franchise ordinance  
–fine of not more than five hundred dollars
- 18-2315 Violation involving heating, ventilating, and air conditioning services  
–fine of not more than five hundred dollars  
–imprisonment of not more than six months  
–both
- 19-905 Remove, alter, or destroy posted notice prior to building zone and regulation hearing
- 19-913 Violation of zoning laws and ordinances and building regulations  
–fine of not more than one hundred dollars  
–imprisonment of not more than thirty days
- 19-1104 Failure of city or village clerk or treasurer to publish council proceedings or fiscal statement  
–fine of not more than twenty-five dollars and removal from office
- 20-124 Interference with freedom of speech and access to public accommodation

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	<ul style="list-style-type: none"> <li>-fine of not more than one hundred dollars</li> <li>-imprisonment of not more than six months</li> <li>-both</li> </ul>
20-140	<p>Equal Opportunity Commission officer or employee revealing unlawful discrimination complaint or investigation</p> <ul style="list-style-type: none"> <li>-fine of not more than one hundred dollars</li> <li>-imprisonment of not more than thirty days</li> </ul>
23-2533	<p>Willful violation of County Civil Service Act</p> <ul style="list-style-type: none"> <li>-fine of not more than five hundred dollars</li> <li>-imprisonment of not more than six months</li> <li>-both</li> </ul>
25-2231	<p>Constable acting outside of jurisdiction</p> <ul style="list-style-type: none"> <li>-fine of not less than ten nor more than one hundred dollars</li> <li>-imprisonment of not more than ten days</li> </ul>
29-426	<p>Failure to appear or comply with citation for traffic or other offense</p> <ul style="list-style-type: none"> <li>-fine of not more than five hundred dollars</li> <li>-imprisonment of not more than three months</li> <li>-both</li> </ul>
31-134	<p>Obstructing drainage ditch</p> <ul style="list-style-type: none"> <li>-fine of not less than ten dollars nor more than fifty dollars</li> </ul>
31-221	<p>Injuring or obstructing watercourse, drain, or ditch</p> <ul style="list-style-type: none"> <li>-fine of not less than twenty-five dollars nor more than one hundred dollars</li> <li>-imprisonment of not more than thirty days</li> </ul>
31-226	<p>Failure to clear watercourse, drain, or ditch after notice</p> <ul style="list-style-type: none"> <li>-fine of not more than ten dollars</li> </ul>
31-366	<p>Willfully obstruct, injure, or destroy ditch, drain, watercourse, or dike of drainage district</p> <ul style="list-style-type: none"> <li>-fine of not more than one hundred dollars</li> </ul>
31-445	<p>Obstruct ditch, drain, or watercourse or injure dike, levee, or other work of drainage district</p> <ul style="list-style-type: none"> <li>-fine of not more than one hundred dollars</li> <li>-imprisonment of not more than six months</li> </ul>
31-507.01	<p>Connection to sanitary sewer without permit</p> <ul style="list-style-type: none"> <li>-fine of not less than twenty-five dollars nor more than one hundred dollars</li> </ul>
33-153	<p>Failure to report and remit fees to county for taking acknowledgments, oaths, and affirmations</p> <ul style="list-style-type: none"> <li>-fine of not more than one hundred dollars</li> </ul>
44-2504	<p>Domestic insurer transacting unauthorized insurance business in reciprocal state</p> <ul style="list-style-type: none"> <li>-fine of not more than ten thousand dollars</li> </ul>
54-1365	<p>Violation of Nebraska Swine Brucellosis Act when not otherwise specified</p> <ul style="list-style-type: none"> <li>-fine not less than one hundred dollars nor more than five hundred dollars</li> <li>-imprisonment of not more than thirty days</li> <li>-both</li> </ul>
55-112	<p>Failure to return or illegal use of military property</p> <ul style="list-style-type: none"> <li>-fine of not more than fifty dollars</li> </ul>
60-684	<p>Refusal to sign traffic citation</p> <ul style="list-style-type: none"> <li>-fine of not more than five hundred dollars</li> </ul>

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	–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 report aircraft to the county assessor
	–fine of not more than fifty dollars
77-1313	Failure of county officer to assist county assessor in assessment of property
	–fine of not less than fifty dollars nor more than five hundred dollars
77-1613.02	County assessor willfully reducing or increasing valuation of property without approval of county board of equalization
	–fine of not less than twenty dollars nor more than one hundred dollars
77-1918	County officers failing to perform duties related to foreclosure
	–removal from office
77-2703	Seller fails or refuses to furnish certified statement regarding motor vehicle or motorboat 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
79-898	Teacher wearing any dress or garb indicating religious affiliation
	–fine of not more than one hundred dollars
	–imprisonment of not more than thirty days
	–both

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- 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

\*Sections noted with an asterisk have additional specified penalty provisions.

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**ACTS, CODES, AND OTHER NAMED LAWS**

NAME OF ACT	WHERE CITED
Angel Investment Tax Credit Act	77-6301
Build Nebraska Act	39-2701
Business Innovation Act	81-12,152
Civic and Community Center Financing Act	13-2701
Concussion Awareness Act	71-9101
Health Care Quality Improvement Act	71-7904
Mandate Opt-Out and Insurance Coverage Clarification Act	44-8401
Nebraska Appraisal Management Company Registration Act	76-3201
Nebraska Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act	30-3901
Nursing Facility Quality Assurance Assessment Act	68-1901
Oil Pipeline Reclamation Act	76-3301
Portable Electronics Insurance Act	44-8501
Postsecondary Institution Act	85-2401
Private Transfer Fee Obligation Act	76-3101
Site and Building Development Act	81-12,144
Small Business Innovation Act	81-12,136



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**CROSS REFERENCE TABLE**

2011 Session Laws of Nebraska, First Session  
Showing LB section number to statute section number

	2011 Session Laws	2011 Supplement		2011 Session Laws	2011 Supplement		2011 Session Laws	2011 Supplement
LB 1		Omitted		11	79-1028.04		17	81-885.24
LB 2	§ 1	2-1579		12	79-1028.02		18	Omitted
		2 46-2,141		13	79-1031.01	LB 26	§ 1	76-3101
		3 46-753		14	Omitted		2	76-3102
		4 46-1117		15	Omitted		3	76-3103
		5 46-1125	LB 19	§ 1	28-405		4	76-3104
		6 66-1519		2	28-416		5	76-3105
		7 Omitted		3	Omitted		6	76-3106
		8 Omitted		4	Omitted		7	76-3107
LB 3		Omitted	LB 20	§ 1	28-101		8	76-3108
LB 4		Omitted		2	28-401.01		9	76-3109
LB 5		Omitted		3	28-458		10	76-3110
LB 6	§ 1	24-701		4	28-459		11	76-3111
		2 Omitted		5	28-460		12	76-3112
LB 7		Omitted		6	28-461		13	76-2,120
LB 8	§ 1	79-413		7	28-462		14	Omitted
		2 79-1008.01		8	28-456.01		15	Omitted
		3 Omitted		9	60-4,111.01	LB 27	§ 1	46-236
		4 Omitted		10	Omitted		2	46-1224
LB 9	§ 1	25-212		11	Omitted		3	Omitted
		2 Omitted	LB 22	§ 1	44-8401	LB 28	§ 1	46-1117
LB 10	§ 1	50-417		2	44-8402		2	46-1123
		2 Omitted		3	44-8403		3	Omitted
LB 11	§ 1	48-631		4	44-8404	LB 29	§ 1	13-2042
		2 Omitted		5	Omitted		2	66-1519
LB 12	§ 1	28-105		6	Omitted		3	81-15,162
		2 29-2204	LB 23	§ 1	81-885.14		4	Omitted
		3 29-2520		2	81-885.19	LB 30	§ 1	81-1505
		4 29-2522		3	81-885.20		2	Omitted
		5 29-2524		4	Omitted	LB 31	§ 1	46-240.01
		6 83-1,105.01	LB 24	§ 1	81-885.49		2	Omitted
		7 Omitted		2	81-885.51	LB 32	§ 1	46-1654
LB 15	§ 1	25-1501.01		3	81-885.52		2	Omitted
LB 17	§ 1	25-1319		4	81-885.53	LB 34	§ 1	71-401
		2 25-1320		5	Omitted		2	71-466
		3 25-1321	LB 25	§ 1	76-2402		3	Omitted
		4 25-2209		2	76-2404.01	LB 35	§ 1	60-6,297
		5 33-106		3	76-2405		2	60-6,298
		6 Omitted		4	76-2407		3	Omitted
		7 Omitted		5	76-2416	LB 36	§ 1	71-3305
		8 Omitted		6	76-2417		2	Omitted
LB 18	§ 1	79-1001		7	76-2418	LB 41	§ 1	37-238
		2 79-1003		8	76-2421		2	37-327
		3 79-1007.07		9	76-2422		3	37-405
		4 79-1007.09		10	76-2422.01		4	37-407
		5 79-1008.01		11	76-2423		5	37-411
		6 79-1022		12	76-2425		6	37-420
		7 79-1022.02		13	76-2427		7	37-421
		8 79-1023		14	76-2429		8	37-421.01
		9 79-1026.01		15	76-2430		9	37-426
		10 79-1027		16	81-885.17		10	37-427

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		11 37-431			3 Omitted			10 Omitted			
		12 37-450	LB 62	§ 1	23-1111	LB 77	§ 1	45-335			
		13 37-461			2 Omitted			2 45-336			
		14 37-464	LB 67	§ 1	60-6,267			3 45-1002			
		15 37-483			2 60-6,268			4 45-1024			
		16 37-484			3 Omitted			5 Omitted			
		17 37-485	LB 68	§ 1	71-2048.01			6 Omitted			
		18 37-487			2 Omitted	LB 78	§ 1	77-2387			
		19 37-488	LB 70	§ 1	44-5502			2 77-2398			
		20 37-489			2 44-5503			3 Omitted			
		21 37-490			3 44-5504			4 Omitted			
		22 37-492			4 44-5505	LB 81	§ 1	14-109			
		23 37-497			5 44-5506			2 18-1214			
		24 37-498			6 44-5508			3 Omitted			
		25 37-4,103			7 44-5510			4 Omitted			
		26 37-503			8 44-5511			5 Omitted			
		27 37-512			9 44-5515			6 Omitted			
		28 37-615			10 Omitted	LB 84	§ 1	39-2701			
		29 37-618			11 Omitted			2 39-2702			
		30 Omitted			12 Omitted			3 39-2703			
		31 Omitted	LB 72	§ 1	44-3,143			4 39-2704			
LB 43	§	1 76-1002			2 44-402.01			5 39-2705			
		2 Omitted			3 44-710.03			6 77-27,132			
LB 45	§	1 2-3256			4 44-710.04			7 Omitted			
		2 81-3401			5 44-1540	LB 90	§ 1	2A-103 UCC			
		3 81-3403			6 44-4803			2 9-102 UCC			
		4 81-3405.01			7 44-4830.01			3 9-105 UCC			
		5 81-3422.01			8 44-4862			4 9-304 UCC			
		6 81-3429			9 Omitted			5 9-307 UCC			
		7 81-3441	LB 73	§ 1	44-4217			6 9-309 UCC			
		8 81-3442			2 44-4219			7 9-311 UCC			
		9 81-3443			3 44-4220.02			8 9-316 UCC			
		10 81-3444			4 44-4223			9 9-317 UCC			
		11 81-3445			5 44-4224			10 9-326 UCC			
		12 81-3446			6 44-4225			11 9-406 UCC			
		13 81-3448			7 77-918			12 9-408 UCC			
		14 81-3449			8 Omitted			13 9-502 UCC			
		15 81-3451			9 Omitted			14 9-503 UCC			
		16 81-3452	LB 74	§ 1	8-1,140			15 9-506 UCC			
		17 81-3453			2 8-355			16 9-507 UCC			
		18 Omitted			3 8-602			17 9-515 UCC			
LB 46	§	1 71-202.01			4 8-1510			18 9-516 UCC			
		2 71-208.01			5 21-17,115			19 9-518 UCC			
		3 Omitted			6 Omitted			20 9-521 UCC			
LB 47	§	1 86-164			7 Omitted			21 9-607 UCC			
		2 Omitted			8 Omitted			22 9-801 UCC			
		3 Omitted			9 Omitted			23 9-802 UCC			
LB 54	§	1 18-2147			10 Omitted			24 9-803 UCC			
		2 Omitted	LB 75	§ 1	8-702			25 9-804 UCC			
LB 56	§	1 81-2104			2 45-189			26 9-805 UCC			
		2 Omitted			3 45-190			27 9-806 UCC			
LB 59	§	1 13-518			4 45-742			28 9-807 UCC			
		2 77-3442			5 Omitted			29 9-808 UCC			
		3 81-1118.02			6 Omitted			30 9-809 UCC			
		4 85-1418	LB 76	§ 1	8-1101			31 Omitted			
		5 85-1503			2 8-1110			32 Omitted			
		6 85-1517			3 8-1111			33 Omitted			
		7 85-1535			4 8-1704	LB 90A		Omitted			
		8 90-517			5 8-1707	LB 94	§ 1	43-107			
		9 Omitted			6 69-2103			2 43-109			
		10 Omitted			7 69-2104			3 43-146.01			
LB 61	§	1 28-311.08			8 69-2112			4 Omitted			
		2 29-4003			9 Omitted	LB 98	§ 1	39-1307			



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Session	Laws	Supplement	Session	Laws	Supplement	Session	Laws	Supplement	Session	Laws	Supplement
		2 66-4,100			17 Omitted			LB 157A			Omitted
		3 Omitted			18 Omitted			LB 158	§	1	60-462
LB 100	§	1 29-122			19 Omitted					2	60-4,112
		2 29-2203			20 Omitted					3	60-4,114.01
		3 Omitted			21 Omitted					4	60-4,122
LB 105	§	1 37-1241.06	LB 152	§	1 48-120					5	Omitted
		2 37-1241.08			2 48-120.04			LB 159	§	1	13-1101
		3 Omitted			3 Omitted					2	13-1102
		4 Omitted	LB 154	§	1 2-3215					3	13-1104
LB 106	§	1 13-320			2 Omitted					4	13-1105
		2 13-319	LB 155	§	1 13-824.01					5	13-1109
		3 Omitted			2 Omitted					6	Omitted
LB 107	§	1 2-4004	LB 156	§	1 81-1505.04					7	Omitted
		2 2-4005			2 Omitted			LB 160	§	1	76-1507
		3 2-4006	LB 157	§	1 25-2708					2	76-1516
		4 2-4007			2 25-2911					3	76-1523
		5 Omitted			3 25-2943					4	Omitted
		6 Omitted			4 30-1601					5	Omitted
LB 108	§	1 34-103			5 30-3901			LB 162	§	1	77-1514
LB 111	§	1 71-915			6 30-3902					2	Omitted
		2 Omitted			7 30-3903			LB 163	§	1	18-1736
LB 112	§	1 75-302			8 30-3904					2	18-1737
		2 75-303			9 30-3905					3	18-1738
		3 75-311			10 30-3906					4	18-1738.01
		4 Omitted			11 30-3907					5	18-1738.02
		5 Omitted			12 30-3908					6	18-1739
LB 114	§	1 81-2,181			13 30-3909					7	18-1740
LB 121	§	1 35-1309			14 30-3910					8	18-1741
		2 Omitted			15 30-3911					9	18-1741.02
		3 Omitted			16 30-3912					10	18-1741.03
LB 122	§	1 90-115			17 30-3913					11	18-1741.04
		2 Omitted			18 30-3914					12	18-1742
LB 124	§	1 43-107			19 30-3915					13	23-186
		2 43-123.01			20 30-3916					14	60-151
		3 Omitted			21 30-3917					15	60-153
LB 134	§	1 49-801.01			22 30-3918					16	60-301
		2 Omitted			23 30-3919					17	60-302
		3 Omitted			24 30-3920					18	60-302.01
LB 135	§	1 37-1287			25 30-3921					19	60-331.01
		2 60-161			26 30-3922					20	60-331.02
		3 Omitted			27 30-3923					21	60-352.01
LB 137	§	1 29-3001			28 30-2201					22	60-3,113
		2 Omitted			29 30-2209					23	60-3,113.01
LB 142	§	1 32-1608			30 30-2210					24	60-3,113.02
		2 Omitted			31 30-2211					25	60-3,113.03
LB 146	§	1 18-3001			32 30-2601					26	60-3,113.04
		2 Omitted			33 30-2602.01					27	60-3,113.05
LB 151	§	1 48-125			34 30-2602.02					28	60-3,113.06
		2 48-145.01			35 30-2613					29	60-3,113.07
		3 48-153			36 30-2618					30	60-3,113.08
		4 48-155			37 30-2620					31	Omitted
		5 48-156			38 30-2626			LB 163A			Omitted
		6 48-167			39 30-2628			LB 164	§	1	60-601
		7 48-170			40 30-2629					2	60-6,288.01
		8 48-175.01			41 30-2630.01					3	60-6,291
		9 48-177			42 30-2632					4	Omitted
		10 48-178			43 30-2640			LB 165	§	1	86-704
		11 48-180			44 30-2647					2	Omitted
		12 48-182			45 30-2648			LB 167	§	1	76-1221
		13 48-185			46 30-2655					2	76-1228
		14 48-191			47 Omitted					3	Omitted
		15 48-1,112			48 Omitted			LB 170	§	1	39-2215
		16 48-1,110			49 Omitted					2	60-4,115

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		3 60-4,127			3 54-1,122			7 60-484.04	
		4 60-2120			4 54-1,122.02			8 60-484.05	
		5 60-2121			5 Omitted			9 60-484.06	
		6 60-2125	LB 181A		Omitted			10 60-487	
		7 60-2126	LB 191	§	1 83-1,107			11 60-4,113	
		8 60-2127			2 83-1,108			12 60-4,114	
		9 60-2128			3 Omitted			13 60-4,115	
		10 60-2129			4 Omitted			14 60-4,117	
		11 60-2130	LB 197	§	1 20-170			15 60-4,120	
		12 60-2131	LB 207	§	1 90-275			16 60-4,121	
		13 60-2132.01			2 37-354			17 60-4,122	
		14 60-2139			3 Omitted			18 60-4,127	
		15 Omitted			4 Omitted			19 60-4,144	
		16 Omitted	LB 208	§	1 70-1001.01			20 60-4,149	
		17 Omitted			2 70-1013			21 60-4,150	
LB 176	§	1 49-14,126			3 70-1014.02			22 60-4,151	
		2 49-14,140			4 70-1015			23 60-4,181	
		3 Omitted			5 76-3001			24 Omitted	
LB 177	§	1 43-285			6 Omitted			25 Omitted	
		2 43-905	LB 210	§	1 13-2609	LB 218	§	1 81-1316	
		3 43-1301			2 13-3107			2 Omitted	
		4 43-1311			3 72-258.03	LB 225	§	1 38-129	
		5 43-1312			4 77-702			2 Omitted	
		6 43-1311.01			5 77-1327			3 Omitted	
		7 43-1311.02			6 77-1783.01	LB 226	§	1 28-101	
		8 43-1311.03			7 77-2704.50			2 28-934	
		9 43-1318			8 77-2705.01			3 Omitted	
		10 68-1202			9 77-2708	LB 228	§	1 81-173	
		11 68-1204			10 77-2709			2 81-190	
		12 Omitted			11 81-8,128			3 81-188	
LB 178	§	1 29-3608			12 81-1260			4 Omitted	
		2 60-462			13 81-15,164			5 Omitted	
		3 60-462.01			14 Omitted	LB 229	§	1 61-218	
		4 60-4,116			15 Omitted			2 81-15,174	
		5 60-4,131			16 Omitted			3 81-15,175	
		6 60-4,131.01			17 Omitted			4 61-220	
		7 60-4,132	LB 210A		Omitted			5 61-221	
		8 60-4,137	LB 211	§	1 13-324			6 Omitted	
		9 60-4,138			2 13-2814			7 Omitted	
		10 60-4,139			3 77-2703	LB 229A		Omitted	
		11 60-4,143			4 77-2703.03	LB 230	§	1 84-712.05	
		12 60-4,144			5 77-2704.10			2 Omitted	
		13 60-4,144.01			6 77-2712.03	LB 234	§	1 68-130	
		14 60-4,144.02			7 77-27,143			2 Omitted	
		15 60-4,145			8 Omitted	LB 235	§	1 77-3446	
		16 60-4,146			9 Omitted			2 79-413	
		17 60-4,153	LB 212	§	1 18-1739			3 79-536	
		18 60-4,154			2 60-144			4 79-1001	
		19 60-4,171			3 60-3,193.01			5 79-1003	
		20 60-2909.01			4 60-3,221			6 79-1003.01	
		21 75-363			5 60-462.01			7 79-1005.01	
		22 75-364			6 60-4,147.02			8 79-1007.10	
		23 Omitted			7 75-363			9 79-1007.11	
LB 178A		Omitted			8 75-364			10 79-1007.16	
LB 179	§	1 28-414			9 75-393			11 79-1007.18	
		2 38-2801			10 Omitted			12 79-1008.01	
		3 38-2802			11 Omitted			13 79-1008.02	
		4 38-2818.01	LB 215	§	1 60-462			14 79-1009	
		5 38-2851			2 60-462.02			15 79-1009.01	
		6 38-2854			3 60-479			16 79-1015.01	
		7 Omitted			4 60-479.01			17 79-1017.01	
LB 181	§	1 54-1,108			5 60-484			18 79-1018.01	
		2 54-1,121			6 60-484.03			19 79-1023	

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		20 79-1025			2 Omitted				3		13-2702
		21 79-1028.01	LB 278	§	1 23-1114				4		13-2703
		22 79-1029			2 23-2545				5		13-2704
		23 79-1030			3 Omitted				6		13-2705
		24 79-1103			4 Omitted				7		13-2707
		25 Omitted	LB 279	§	1 53-169.01				8		13-2710
		26 Omitted			2 Omitted				9		13-3108
		27 Omitted	LB 281	§	1 53-186				10		77-5601
LB 237	§	1 71-2454			2 53-186.01				11		Omitted
		2 71-2455			3 60-6,211.08	LB 303					Omitted
LB 241	§	1 60-126			4 Omitted	LB 305	§	1			54-857
		2 60-139	LB 284	§	1 28-1320.02				2		54-1916
		3 60-140			2 Omitted				3		Omitted
		4 60-142	LB 286	§	1 53-123.15	LB 305A					Omitted
		5 60-344			2 Omitted	LB 308	§	1			17-107
		6 Omitted	LB 289	§	1 14-3,113				2		17-208
		7 Omitted			2 23-187				3		Omitted
LB 243	§	1 46-2,140			3 39-2215	LB 309	§	1			19-2432
		2 Omitted			4 39-2215.01				2		Omitted
		3 Omitted			5 39-2216	LB 311	§	1			53-1,104
LB 248	§	1 81-520.01			6 60-101				2		Omitted
		2 81-520.03			7 60-119.01	LB 314	§	1			53-183
		3 81-520.04			8 60-123				2		Omitted
		4 81-520.05			9 60-137	LB 315	§	1			21-2024
		5 Omitted			10 60-142.08				2		21-2201
LB 252	§	1 12-101			11 60-165				3		21-2223
		2 77-2704.15			12 60-301				4		Omitted
		3 Omitted			13 60-306				5		Omitted
		4 Omitted			14 60-336.01	LB 326	§	1			Omitted
		5 Omitted			15 60-339				2		Omitted
LB 254	§	1 23-1503.01			16 60-383.02	LB 329	§	1			72-804
		2 23-1528			17 60-386				2		72-805
		3 23-1510			18 60-393				3		72-806
		4 Omitted			19 60-395				4		81-1608
LB 257	§	1 86-143			20 60-3,100				5		81-1609
		2 86-144			21 60-3,113				6		81-1611
		3 Omitted			22 60-3,187				7		81-1614
LB 259	§	1 37-914			23 60-3,190				8		81-1615
		2 81-701.05			24 60-3,191				9		81-1616
		3 74-1427			25 60-471				10		81-1620
		4 Omitted			26 60-501				11		Omitted
		5 Omitted			27 60-520	LB 331	§	1			79-1316
LB 260	§	1 71-9101			28 60-547				2		Omitted
		2 71-9102			29 60-601	LB 332	§	1			72-201
		3 71-9103			30 60-605				2		Omitted
		4 71-9104			31 60-628.01	LB 333	§	1			9-812
		5 71-9105			32 60-6,380				2		79-720
		6 71-9106			33 60-6,348				3		79-722
		7 Omitted			34 60-6,349				4		79-760.04
LB 261	§	1 48-604			35 66-712				5		79-760.05
		2 Omitted			36 66-738				6		79-8,133
LB 264	§	1 12-1301			37 66-1405				7		79-8,137.01
		2 30-241			38 77-1330				8		79-8,137.05
		3 81-176			39 Omitted				9		79-8,139
		4 81-1108.33			40 Omitted				10		79-1012
		5 Omitted			41 Omitted				11		79-1044
		6 Omitted	LB 289A		Omitted				12		79-1047
LB 265	§	1 81-3120	LB 292	§	1 49-14,120				13		79-1051
		2 Omitted			2 Omitted				14		79-1108
LB 274	§	1 71-2421			3 Omitted				15		79-1108.02
		2 71-2453			4 Omitted				16		79-2104.02
		3 Omitted	LB 297	§	1 13-2610				17		Omitted
LB 277	§	1 81-1255			2 13-2701				18		Omitted

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		19 Omitted		4 Omitted	27	81-1120.22
LB 334	§	1 2-3815		5 Omitted	28	81-1120.23
		2 2-5003		6 Omitted	29	81-1120.29
		3 38-2620		7 Omitted	30	82-331
		4 38-2622		8 Omitted	31	85-122
		5 81-1273		9 Omitted	32	85-125
		6 81-1275		10 Omitted	33	85-192
		7 85-214		11 Omitted	34	85-1,123
		8 85-215		12 Omitted	35	9-531 UCC
		9 85-1005		13 Omitted	36	Omitted
		10 Omitted		14 Omitted	37	Omitted
		11 Omitted		15 Omitted	38	Omitted
		12 Omitted		16 Omitted	LB 379	§ 1 66-1345
LB 335	§	1 14-568		17 Omitted		2 84-612
		2 15-850		18 Omitted		3 Omitted
		3 16-321.01		19 Omitted		4 Omitted
		4 17-568.02		20 Omitted	LB 380	§ 1 81-188.01
		5 Omitted		21 Omitted		2 81-188.03
		6 Omitted		22 Omitted		3 81-188.05
LB 337	§	1 23-362		23 Omitted		4 Omitted
		2 39-2204		24 Omitted		5 Omitted
		3 60-1409		25 Omitted		6 Omitted
		4 66-738		26 Omitted		7 Omitted
		5 72-1255		27 Omitted	LB 382	§ 1 79-958
		6 77-2608		28 Omitted		2 79-966
		7 Omitted		29 Omitted		3 79-988.01
		8 Omitted		30 Omitted		4 79-9,113
LB 342	§	1 31-409		31 Omitted		5 79-1003
		2 31-409.02		32 Omitted		6 79-1028.01
		3 Omitted		33 90-519		7 81-2017
LB 345	§	1 81-12,136		34 Omitted		8 Omitted
		2 81-12,137		35 Omitted		9 Omitted
		3 81-12,138		36 Omitted	LB 382A	Omitted
		4 81-12,139	LB 374	Omitted	LB 383	§ 1 13-518
		5 81-12,140	LB 375	Omitted		2 77-3,119
		6 81-12,141	LB 376	Omitted		3 77-27,139.02
		7 81-12,142	LB 377	Omitted		4 77-27,139.03
		8 81-12,143	LB 378 §	1 Omitted		5 81-15,147
		9 13-208		2 Omitted		6 83-380
		10 Omitted		3 Omitted		7 Omitted
		11 Omitted		4 Omitted		8 Omitted
LB 345A		Omitted		5 Omitted		9 Omitted
LB 347	§	1 81-885.21		6 Omitted	LB 384	§ 10 Omitted
		2 81-885.24		7 Omitted		1 49-617
		3 Omitted		8 Omitted		2 77-123
LB 360	§	1 77-105		9 Omitted		3 77-202.04
		2 77-202		10 Omitted		4 77-202.12
		3 77-27,235		11 Omitted		5 77-702
		4 77-6203		12 Omitted		6 77-1301
		5 Omitted		13 Omitted		7 77-1303
		6 Omitted		14 Omitted		8 77-1311
		7 Omitted		15 Omitted		9 77-1311.03
		8 Omitted		16 24-205		10 77-1315
		9 Omitted		17 24-227.01		11 77-1315.01
LB 366	§	1 81-15,175		18 25-2921		12 77-1317
		2 84-1409		19 29-2259.02		13 77-1318
		3 Omitted		20 29-2262.07		14 77-1502
LB 368	§	1 32-616		21 47-632		15 77-1504
		2 32-710		22 48-1,103		16 77-1504.01
		3 Omitted		23 48-622.01		17 77-1507
LB 373	§	1 Omitted		24 66-1345.04		18 77-1514
		2 Omitted		25 81-8,239.02		19 77-3519
		3 Omitted		26 81-1120.02		20 77-5001

CROSS REFERENCE TABLE

2011 Session	2011 Laws	2011 Supplement	2011 Session	2011 Laws	2011 Supplement	2011 Session	2011 Laws	2011 Supplement
		21 77-5003			9 81-1213			35 Omitted
		22 77-5004			10 58-702			36 Omitted
		23 77-5005			11 58-703			37 Omitted
		24 77-5007			12 58-706			38 Omitted
		25 77-5008			13 58-708			39 Omitted
		26 77-5015			14 76-903			40 Omitted
		27 77-5015.01			15 Omitted	LB 394	§	1 2-3745
		28 77-5015.02			16 Omitted			2 2-3746
		29 77-5016	LB 388A		Omitted			3 2-3747
		30 77-5017	LB 389	§	1 77-6301			4 2-3748
		31 77-5018			2 77-6302			5 2-3749
		32 77-5019			3 77-6303			6 Omitted
		33 77-5022			4 77-6304			7 Omitted
		34 77-5024.01			5 77-6305	LB 396	§	1 77-2318
		35 77-5027			6 77-6306			2 Omitted
		36 Omitted			7 77-6307	LB 397	§	1 48-801
		37 Omitted			8 77-6308			2 48-801.01
		38 Omitted			9 77-6309			3 48-802
		39 Omitted			10 77-6310			4 48-804
		40 Omitted			11 49-801.01			5 48-809
		41 Omitted			12 77-2715.07			6 48-811
LB 384A		Omitted			13 77-2717			7 48-813
LB 385	§	1 66-1012			14 77-27,187.02			8 48-816
		2 66-1014			15 Omitted			9 48-817
		3 66-1015			16 Omitted			10 48-818
		4 66-1016			17 Omitted			11 48-818.01
		5 66-1019.01			18 Omitted			12 48-818.02
		6 Omitted			19 Omitted			13 48-818.03
		7 Omitted	LB 389A		Omitted			14 48-824
LB 386	§	1 81-1210.01	LB 390	§	1 29-2252			15 48-838
		2 81-1210.02			2 29-2255			16 48-839
		3 81-1210.03			3 29-2261			17 79-852
		4 81-1201.21			4 29-2262.07			18 79-2116
		5 Omitted			5 29-2521.02			19 81-1369
		6 Omitted			6 47-621			20 81-1371
		7 Omitted			7 47-622			21 81-1372
LB 387	§	1 81-12,152			8 47-624			22 81-1373
		2 81-12,153			9 47-624.01			23 81-1375
		3 81-12,154			10 47-627			24 81-1378
		4 81-12,155			11 47-628			25 81-1379
		5 81-12,156			12 47-629			26 81-1381
		6 81-12,157			13 47-632			27 81-1382
		7 81-12,158			14 47-634			28 81-1383
		8 81-12,159			15 81-8,239.01			29 81-1384
		9 81-12,160			16 81-1403			30 81-1385
		10 81-12,161			17 81-1404			31 81-1386
		11 81-12,162			18 81-1423			32 81-1387
		12 81-12,163			19 81-1425			33 Omitted
		13 81-12,164			20 81-1447			34 Omitted
		14 81-12,165			21 81-1801			35 Omitted
		15 81-12,166			22 81-1801.02			36 Omitted
		16 81-12,167			23 81-1818	LB 399	§	1 32-618
		17 Omitted			24 81-1822			2 Omitted
		18 Omitted			25 83-1,102			3 Omitted
LB 387A		Omitted			26 83-1,107.02	LB 400	§	1 2-3225
LB 388	§	1 81-12,144			27 83-4,126			2 77-3442
		2 81-12,145			28 83-4,131			3 Omitted
		3 81-12,146			29 84-1410	LB 401	§	1 71-5905
		4 81-12,147			30 Omitted			2 Omitted
		5 81-12,148			31 Omitted	LB 404	§	1 2-5422
		6 81-12,149			32 Omitted			2 13-2709
		7 81-12,150			33 Omitted			3 58-711
		8 81-12,151			34 Omitted			4 81-1201.11

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	2011 Session	2011 Laws	2011 Supplement	2011 Session	2011 Laws	2011 Supplement	2011 Session	2011 Laws	2011 Supplement		
		5	81-1205		5	71-7908	11	43-2,129			
		6	81-1277		6	71-7909	12	43-412			
		7	81-12,104		7	71-7910	13	43-416			
		8	81-12,135		8	71-7911	14	43-3717			
		9	81-3605		9	71-7912	15	43-3718			
		10	Omitted		10	71-7913	16	43-3719			
		11	Omitted		11	28-435.01	17	43-3720			
LB 406	§	1	38-2001		12	38-1,126	18	43-3701			
		2	38-2026		13	38-1,127	19	79-209			
		3	38-2026.01		14	71-6736	20	79-2104			
		4	Omitted		15	71-7460.02	21	79-2104.02			
LB 407	§	1	53-101		16	Omitted	22	79-2121			
		2	53-110		17	Omitted	23	Omitted			
		3	53-123.12		18	Omitted	24	Omitted			
		4	53-124.12	LB 449	§	1	32-208	25	Omitted		
		5	53-131		2	32-305	26	Omitted			
		6	53-133		3	32-312		Omitted			
		7	53-177		4	32-606	LB 463A				
		8	53-177.01		5	32-615	LB 464	§	1	43-536	
		9	Omitted		6	32-616			2	Omitted	
LB 410	§	1	76-3201		7	32-811			3	Omitted	
		2	76-3202		8	32-903	LB 465	§	1	Omitted	
		3	76-3203		9	32-947			2	Omitted	
		4	76-3204		10	32-948			3	Omitted	
		5	76-3205		11	32-1203	LB 468	§	1	68-909	
		6	76-3206		12	32-1303			2	Omitted	
		7	76-3207		13	32-1306	LB 471	§	1	18-2708	
		8	76-3208		14	Omitted			2	18-2709	
		9	76-3209	LB 453		Omitted			3	18-2714	
		10	76-3210	LB 454		Omitted			4	18-2717	
		11	76-3211	LB 455		Omitted			5	Omitted	
		12	76-3212	LB 458	§	1	57-909	LB 474	§	1	2-3228
		13	76-3213		2	Omitted			2	12-101	
		14	76-3214	LB 462	§	1	21-1931		3	14-567	
		15	76-3215		2	21-19,151			4	14-1805.01	
		16	76-3216		3	21-2028			5	14-2111	
		17	76-3217		4	21-20,173			6	15-1017	
		18	76-3218		5	67-234			7	16-1017	
		19	76-3219		6	67-455			8	16-1037	
		20	76-3220		7	84-511			9	19-3501	
		21	76-2223		8	87-208			10	23-1118	
		22	Omitted		9	87-209			11	23-3526	
		23	Omitted		10	87-210			12	71-1631.02	
LB 410A			Omitted		11	87-211			13	84-304.02	
LB 413	§	1	58-706		12	87-212			14	84-1503	
		2	Omitted		13	87-213			15	Omitted	
LB 421	§	1	37-438		14	87-214	LB 477	§	1	60-1401	
		2	37-440		15	87-215			2	60-1420	
		3	Omitted		16	87-216			3	60-1424	
		4	Omitted		17	87-217			4	60-1425	
LB 423	§	1	77-1901		18	87-218			5	60-1427	
		2	77-1902		19	Omitted			6	60-1429	
		3	77-1909		20	Omitted			7	60-1436	
		4	77-1914	LB 463	§	1	28-416		8	60-1437	
		5	77-1915		2	29-2258			9	60-1438	
		6	77-1916		3	29-3921			10	60-1438.01	
		7	Omitted		4	43-286			11	Omitted	
LB 424	§	1	85-1738		5	43-286.01	LB 479	§	1	29-4306	
		2	Omitted		6	43-2,108.01			2	71-9001	
LB 431	§	1	71-7904		7	43-2,108.02			3	Omitted	
		2	71-7905		8	43-2,108.03	LB 480	§	1	13-1302	
		3	71-7906		9	43-2,108.04			2	13-1304	
		4	71-7907		10	43-2,108.05			3	Omitted	

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2011		2011		2011		2011		2011		2011	
Session	Laws	Supplement	Session	Laws	Supplement	Session	Laws	Supplement	Session	Laws	Supplement
LB 490	§	1 9-601			42 81-2026				5		37-919
		2 9-603			43 81-2041				6		37-920
		3 9-603.04			44 84-1301				7		37-921
		4 9-607			45 84-1307				8		59-1608.04
		5 Omitted			46 84-1309.02				9		Omitted
LB 494	§	1 68-914			47 84-1313.02				10		Omitted
		2 Omitted			48 84-1321.01				11		Omitted
		3 Omitted			49 84-1322	LB 549A					Omitted
LB 499	§	1 32-602			50 84-1501	LB 550	§	1			32-606
		2 32-617			51 84-1503			2			Omitted
		3 32-632			52 84-1511	LB 556	§	1			22-141.01
		4 32-939			53 Omitted			2			22-161.01
		5 32-941			54 Omitted			3			Omitted
		6 32-942			55 Omitted			4			Omitted
		7 Omitted			56 Omitted	LB 558	§	1			79-769
LB 500	§	1 60-4,182	LB 512	§	1 28-1204.04			2			Omitted
		2 60-6,256			2 69-2402	LB 563	§	1			90-274
		3 Omitted			3 69-2409.01			2			37-354
LB 502	§	1 48-1617			4 69-2433			3			Omitted
		2 48-1623			5 71-901			4			Omitted
		3 48-1624			6 71-903	LB 573	§	1			60-6,232
		4 Omitted			7 71-904.01			2			81-829.36
LB 509	§	1 4-108			8 71-963			3			81-829.67
		2 23-2301			9 Omitted			4			Omitted
		3 23-2302			10 Omitted	LB 575	§	1			79-2201
		4 23-2306	LB 521	§	1 28-335			2			79-2202
		5 23-2308			2 Omitted			3			79-2203
		6 23-2308.01			3 Omitted			4			79-2204
		7 23-2319.01	LB 524	§	1 9-701			5			79-2205
		8 23-2320			2 Omitted			6			79-2206
		9 24-701.01	LB 525	§	1 68-901			7			9-812
		10 24-710.13			2 68-970			8			79-318
		11 24-710			3 68-971			9			Omitted
		12 42-1102			4 Omitted			10			Omitted
		13 68-621	LB 525A		Omitted	LB 575A					Omitted
		14 72-1243	LB 535	§	1 44-8501	LB 585					Omitted
		15 79-408			2 44-8502	LB 589	§	1			13-901
		16 79-901			3 44-8503			2			13-910
		17 79-902			4 44-8504			3			13-928
		18 79-903			5 44-8505			4			39-1359
		19 79-904			6 44-8506			5			81-8,219
		20 79-904.01			7 44-8507			6			Omitted
		21 79-916			8 44-8508			7			Omitted
		22 79-920			9 44-8509	LB 590	§	1			59-1520
		23 79-926			10 44-102.01			2			59-1523
		24 79-933.03			11 Omitted			3			69-502
		25 79-933.05			12 Omitted			4			69-2702
		26 79-933.06	LB 542	§	1 71-401			5			69-2703
		27 79-941			2 71-467			6			69-2705
		28 79-942			3 Omitted			7			69-2706
		29 79-944	LB 543	§	1 68-1017.02			8			69-2707
		30 79-947			2 Omitted			9			69-2707.01
		31 79-955			3 Omitted			10			69-2708
		32 79-947.06	LB 544	§	1 79-724			11			69-2708.01
		33 79-978.01			2 Omitted			12			69-2709
		34 79-987	LB 546	§	1 71-6403			13			69-2710
		35 79-9,113			2 71-6405			14			69-2710.01
		36 79-9,117			3 71-6406			15			69-2710.02
		37 79-9,118			4 Omitted			16			69-2710.03
		38 79-1003	LB 549	§	1 37-915			17			69-2711
		39 79-1028.01			2 37-916			18			71-7606
		40 81-2014.01			3 37-917			19			77-2601
		41 81-2027.08			4 37-918			20			77-2602

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2011		2011		2011		2011		2011		
Session	Laws	Supplement	Session	Laws	Supplement	Session	Laws	Supplement	Supplement	
	21	77-2602.03		30	68-1930	LB 637A			Omitted	
	22	77-2602.05		31	Omitted	LB 641	§	1	53-134	
	23	77-2602.06		32	Omitted			2	53-197	
	24	77-2603	LB 600A		Omitted			3	Omitted	
	25	77-2603.01	LB 617	§	1	84-901.01	LB 642	§	1	77-367
	26	77-2604			2	84-907			2	77-5601
	27	77-2604.01			3	84-907.09			3	Omitted
	28	77-2605			4	84-910			4	Omitted
	29	77-2607			5	84-920	LB 648	§	1	43-285
	30	77-2608			6	Omitted			2	43-1314
	31	77-2610			7	Omitted			3	71-1902
	32	77-2612	LB 621	§	1	90-276			4	Omitted
	33	77-2613			2	90-277	LB 665	§	1	28-311
	34	77-2614			3	Omitted			2	Omitted
	35	77-2615	LB 628	§	1	23-3104			3	Omitted
	36	77-2615.01			2	23-3107	LB 667	§	1	28-101
	37	77-2620			3	23-3115			2	28-1254
	38	77-2622			4	13-329			3	28-306
	39	Omitted			5	Omitted			4	28-394
	40	Omitted	LB 629	§	1	76-3301			5	29-215
LB 590A		Omitted			2	76-3302			6	29-1917
LB 591	§	1	71-552		3	76-3303			7	29-2259.01
		2	38-178		4	76-3304			8	37-1201
		3	38-182		5	76-3305			9	37-1238.01
		4	71-448		6	76-3306			10	37-1254.01
		5	71-529		7	Omitted			11	37-1254.02
		6	71-539		8	Omitted			12	37-1254.03
		7	71-541.01	LB 637	§	1	85-2401		13	37-1254.05
		8	71-540		2	85-2402			14	37-1254.07
		9	71-541		3	85-2403			15	37-1254.08
		10	71-542		4	85-2404			16	37-1254.09
		11	71-543		5	85-2405			17	37-1254.10
		12	71-544		6	85-2406			18	37-1254.11
		13	Omitted		7	85-2407			19	37-1254.12
LB 600	§	1	68-1901		8	85-2408			20	37-1295
		2	68-1902		9	85-2409			21	53-180
		3	68-1903		10	85-2410			22	53-180.05
		4	68-1904		11	85-2411			23	60-497.01
		5	68-1905		12	85-2412			24	60-498.01
		6	68-1906		13	85-2413			25	60-498.02
		7	68-1907		14	85-2414			26	60-498.03
		8	68-1908		15	85-2415			27	60-498.04
		9	68-1909		16	85-2416			28	60-4,115
		10	68-1910		17	85-2417			29	60-4,118.06
		11	68-1911		18	85-2418			30	60-4,129
		12	68-1912		19	85-2419			31	60-4,164
		13	68-1913		20	85-2420			32	60-601
		14	68-1914		21	85-2421			33	60-6,197
		15	68-1915		22	9-812			34	60-6,197.02
		16	68-1916		23	38-2622			35	60-6,197.03
		17	68-1917		24	77-2704.12			36	60-6,197.05
		18	68-1918		25	79-757			37	60-6,197.09
		19	68-1919		26	79-759			38	60-6,197.10
		20	68-1920		27	85-943			39	60-6,198
		21	68-1921		28	85-961			40	60-6,211.05
		22	68-1922		29	85-1412			41	60-6,211.11
		23	68-1923		30	85-1604			42	Omitted
		24	68-1924		31	85-1620			43	Omitted
		25	68-1925		32	85-1643	LB 667A			Omitted
		26	68-1926		33	85-2105	LB 669	§	1	20-159
		27	68-1927		34	Omitted			2	24-502
		28	68-1928		35	Omitted			3	24-507
		29	68-1929		36	Omitted			4	24-515



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2011		2011		2011		2011		2011		2011	
Session	Laws	Supplement	Session	Laws	Supplement	Session	Laws	Supplement	Session	Laws	Supplement
	5	24-337.01	LB 675	§	1	28-106			12	71-6909	
	6	24-230			2	60-498.02			13	71-6908	
	7	25-505.01			3	60-4,129			14	71-6910	
	8	25-506.01			4	60-601			15	71-6911	
	9	25-507.01			5	60-697			16	Omitted	
	10	25-508.01			6	60-698			17	Omitted	
	11	25-509.01			7	60-6,196.01	LB 699	§	1	24-201.02	
	12	25-510.02			8	60-6,197.02			2	24-201.04	
	13	25-511.02			9	60-6,197.03			3	Omitted	
	14	25-512.01			10	60-6,198			4	Omitted	
	15	25-513.01			11	83-1,135	LB 700	§	1	75-101.01	
	16	25-514.01			12	83-1,112.01			2	75-101.02	
	17	25-2221			13	Omitted			3	Omitted	
	18	25-2406			14	Omitted			4	Omitted	
	19	25-2705	LB 684	§	1	81-1201.13	LB 701	§	1	85-103.01	
	20	25-2805			2	Omitted			2	85-103.02	
	21	29-404	LB 684A			Omitted			3	Omitted	
	22	29-1603	LB 687	§	1	38-131			4	Omitted	
	23	29-2259			2	38-3301	LB 702	§	1	79-311	
	24	32-524			3	38-3335			2	79-312	
	25	42-361			4	Omitted			3	Omitted	
	26	43-258			5	Omitted			4	Omitted	
	27	Omitted	LB 690	§	1	38-2021	LB 703	§	1	32-508	
	28	Omitted			2	64-113			2	50-1153	
	29	Omitted			3	71-6901			3	50-1154	
	30	Omitted			4	71-6902			4	Omitted	
	31	Omitted			5	71-6902.01			5	Omitted	
LB 673	§	1	42-371		6	71-6902.02			6	Omitted	
	2	43-2920			7	71-6903	LB 704	§	1	32-504	
	3	43-2922			8	71-6904			2	32-505	
	4	43-2929.01			9	71-6905			3	Omitted	
	5	43-2929			10	71-6906			4	Omitted	
	6	Omitted			11	71-6907					



APPENDIX

**APPENDIX**

**CROSS REFERENCE TABLE**

Legislative Bills, One Hundred Second Legislature  
First Session, 2011

Showing the date each act went into effect.  
Convened January 5, 2011, and adjourned May 26, 2011.

LB No.	Effective Date	LB No.	Effective Date
1	August 27, 2011	59	February 23, 2011
2	August 27, 2011	61	August 27, 2011
3	August 27, 2011	62	August 27, 2011
4	August 27, 2011	67	August 27, 2011
5	August 27, 2011	68	August 27, 2011
6	August 27, 2011	70	July 21, 2011
7	August 27, 2011		(operative date)
8	August 27, 2011	72	August 27, 2011
9	August 27, 2011	73	May 18, 2011
10	August 27, 2011	74	Sections 3, 8, and 9 of
11	August 27, 2011		this act become operative
12	August 27, 2011		on August 27, 2011. The
15	August 27, 2011		other sections of this act
17	January 1, 2012		become operative on
	(operative date)		February 23, 2011.
18	February 11, 2011	75	February 23, 2011
19	February 23, 2011	76	February 23, 2011
20	January 1, 2012	77	March 11, 2011
	(operative date)	78	March 11, 2011
22	January 1, 2012	81	January 1, 2011
	(operative date)		(operative date)
23	August 27, 2011	84	August 27, 2011
24	August 27, 2011	90	July 1, 2013
25	August 27, 2011		(operative date)
26	March 11, 2011	90 A	August 27, 2011
27	August 27, 2011	94	August 27, 2011
28	August 27, 2011	98	August 27, 2011
29	August 27, 2011	100	August 27, 2011
30	August 27, 2011	105	January 1, 2012
31	August 27, 2011		(operative date)
32	August 27, 2011	106	August 27, 2011
34	August 27, 2011	107	May 18, 2011
35	August 27, 2011	108	August 27, 2011
36	August 27, 2011	111	August 27, 2011
41	August 27, 2011	112	April 27, 2011
43	August 27, 2011	114	August 27, 2011
45	August 27, 2011	121	August 27, 2011
46	August 27, 2011	122	August 27, 2011
47	February 23, 2011	124	August 27, 2011
54	August 27, 2011	134	February 23, 2011
56	August 27, 2011	135	August 27, 2011

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LB No.	Effective Date	LB No.	Effective Date
137	August 27, 2011	218	August 27, 2011
142	August 27, 2011	225	March 11, 2011
146	August 27, 2011	226	August 27, 2011
151	Sections 6, 8, 17, 18, and 21 of this act become operative on May 25, 2011. The other sections of this act become operative on August 27, 2011.	228	August 27, 2011
		229	May 18, 2011
		229 A	May 18, 2011
		230	August 27, 2011
		234	August 27, 2011
		235	April 27, 2011
		237	August 27, 2011
152	August 27, 2011	241	February 23, 2011
154	August 27, 2011	243	March 11, 2011
155	August 27, 2011	248	August 27, 2011
156	August 27, 2011	252	July 1, 2011
157	January 1, 2012 (operative date)		(operative date)
		254	August 27, 2011
157 A	August 27, 2011	257	August 27, 2011
158	August 27, 2011	259	August 27, 2011
159	March 17, 2011	260	July 1, 2012
160	August 27, 2011		(operative date)
162	August 27, 2011	261	August 27, 2011
163	August 27, 2011	264	March 11, 2011
163 A	August 27, 2011	265	August 27, 2011
164	August 27, 2011	274	August 27, 2011
165	August 27, 2011	277	August 27, 2011
167	August 27, 2011	278	August 27, 2011
170	January 1, 2012 (operative date)	279	August 27, 2011
		281	August 27, 2011
176	August 27, 2011	284	August 27, 2011
177	August 27, 2011	286	August 27, 2011
178	August 27, 2011	289	January 1, 2012
178 A	August 27, 2011		(operative date)
179	August 27, 2011	289 A	August 27, 2011
181	August 27, 2011	292	July 1, 2011
181 A	August 27, 2011		(operative date)
191	March 17, 2011	297	August 27, 2011
197	August 27, 2011	303	August 27, 2011
207	April 15, 2011	305	August 27, 2011
208	August 27, 2011	305 A	August 27, 2011
210	Sections 3, 4, 5, 6, 11, 14, 15, and 17 of this act become operative on August 27, 2011. The other sections of this act become operative on October 1, 2011.	308	August 27, 2011
		309	May 18, 2011
		311	August 27, 2011
		314	August 27, 2011
		315	May 18, 2011
		326	March 11, 2011
		329	August 27, 2011
210 A	August 27, 2011	331	August 27, 2011
211	October 1, 2011 (operative date)	332	August 27, 2011
		333	March 16, 2011
212	February 23, 2011	334	March 11, 2011
215	March 11, 2011	335	August 27, 2011

CROSS REFERENCE TABLE

LB No.	Effective Date	LB No.	Effective Date
337	April 27, 2011	389	Sections 12, 13, and 16 of this act become operative for all taxable years beginning or deemed to begin on or after January 1, 2011, under the Internal Revenue Code of 1986, as amended. Sections 14, 15, 18, and 19 of this act become operative on July 1, 2011. The other sections of this act become operative on September 1, 2011.
342	August 27, 2011		
345	May 25, 2011		
345 A	May 25, 2011	389 A	May 25, 2011
347	August 27, 2011	390	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35, 38, and 39 of this act become operative on July 1, 2011. The other sections of this act become operative on May 27, 2011.
360	Sections 3 and 7 of this act become operative on October 1, 2011. The other sections of this act become operative on January 1, 2010.		
366	August 27, 2011		
368	August 27, 2011		
373	May 18, 2011		
374	July 1, 2011 (operative date)		
375	July 1, 2011 (operative date)		
376	July 1, 2011 (operative date)		
377	July 1, 2011 (operative date)		
378	May 18, 2011		
379	May 18, 2011		
380	July 1, 2011 (operative date)		
382	May 5, 2011	394	May 18, 2011
382 A	May 5, 2011	396	August 27, 2011
383	July 1, 2011 (operative date)	397	Sections 11, 12, 13, and 35 of this act become operative on July 1, 2012. Section 33 of this act becomes operative on August 27, 2011. The other sections of this act become operative on October 1, 2011.
384	Sections 16, 32, 33, 36, 37, 38, and 41 of this act become operative on May 12, 2011. Sections 1, 5, 20, 21, 22, 23, 27, 28, 29, 30, 31, and 40 of this act become operative on July 1, 2011. The other sections of this act become operative on August 27, 2011.	399	March 17, 2011
384 A	May 12, 2011	400	August 27, 2011
385	April 27, 2011	401	August 27, 2011
386	June 1, 2011 (operative date)	404	January 1, 2012 (operative date)
387	October 1, 2011 (operative date)	406	August 27, 2011
387 A	August 27, 2011	407	August 27, 2011
388	October 1, 2011 (operative date)	410	January 1, 2012 (operative date)
388 A	August 27, 2011	410 A	August 27, 2011
		413	August 27, 2011
		421	January 1, 2012 (operative date)
		423	August 27, 2011

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LB No.	Effective Date	LB No.	Effective Date
424	August 27, 2011	573	August 27, 2011
431	April 27, 2011	575	July 1, 2012
449	August 27, 2011		(operative date)
453	August 27, 2011	575 A	August 27, 2011
454	August 27, 2011	585	May 18, 2011
455	August 27, 2011	589	May 25, 2011
458	August 27, 2011	590	Sections 23 and 39 of
462	August 27, 2011		this act become operative
463	Sections 6, 7, 8, 9, 10, 12, 13, and 25 of this act become operative on August 27, 2011. The other sections of this act become operative on May 12, 2011.		on August 27, 2011. The other sections of this act become operative on January 1, 2013.
463 A	May 12, 2011	590 A	August 27, 2011
464	July 1, 2011 (operative date)	591	August 27, 2011
465	July 1, 2011 (operative date)	600	July 1, 2011 (operative date)
468	August 27, 2011	600 A	April 29, 2011
471	August 27, 2011	617	May 25, 2011
474	August 27, 2011	621	April 15, 2011
477	August 27, 2011	628	August 27, 2011
479	August 27, 2011	629	May 27, 2011
480	August 27, 2011	637	May 5, 2011
490	August 27, 2011	637 A	May 5, 2011
494	May 19, 2011	641	August 27, 2011
499	August 27, 2011	642	May 27, 2011
500	August 27, 2011	648	August 27, 2011
502	August 27, 2011	665	May 12, 2011
509	July 1, 2011 (operative date)	667	January 1, 2012 (operative date)
512	January 1, 2012 (operative date)	667 A	August 27, 2011
521	August 27, 2011	669	Sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 27, 28, and 31 of this act become operative on May 27, 2011. The other sections of this act become operative on August 27, 2011.
524	August 27, 2011		
525	August 27, 2011	673	August 27, 2011
525 A	August 27, 2011	675	January 1, 2012 (operative date)
535	January 1, 2012 (operative date)	684	August 27, 2011
542	August 27, 2011	684 A	August 27, 2011
543	April 15, 2011	687	May 19, 2011
544	August 27, 2011	690	August 27, 2011
546	August 27, 2011	699	May 27, 2011
549	May 18, 2011	700	May 27, 2011
549 A	May 18, 2011	701	May 27, 2011
550	August 27, 2011	702	May 27, 2011
556	August 27, 2011	703	May 27, 2011
558	August 27, 2011	704	May 27, 2011
563	April 15, 2011		